

# **Exhibit A**

James S. Carr, Esq.  
Nicholas J. Panarella, Esq.  
Kristin S. Elliott, Esq.  
Martin Krolewski, Esq.  
(admitted pro hac vice)  
KELLEY DRYE & WARREN LLP  
101 Park Avenue  
New York, New York 10178  
Telephone: (212) 808-7800  
Telecopy: (212) 808-7897

Lynn T. Tavenner, Esq. (VA Bar No. 30083)  
Paula S. Beran, Esq. (VA Bar No. 34679)  
TAVENNER & BERAN, PLC  
20 North Eighth Street, 2<sup>nd</sup> Floor  
Richmond, Virginia 23219  
Telephone: (804) 783-8300  
Telecopy: (804) 783-0178

*Counsel to the Circuit City Stores, Inc.  
Liquidating Trust*

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
RICHMOND DIVISION**

In re:	) Case No. 08-35653 (KRH)
	)
CIRCUIT CITY STORES, INC., <i>et al.</i> ,	) Chapter 11
	)
Debtors.	) (Jointly Administered)
	)

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**DISCOVERY SCHEDULING ORDER**

Claimants Roy Eisner and Joanne Eisner (collectively, the “Eisners” and/or “Claimants”) filed on or about January 8, 2009 and January 14, 2009 claims against the Debtors, Circuit City Stores, Inc., *et al.* (“Debtors”), for personal injuries in the amounts of \$10,000,000 and \$1,000,000 respectively. Claimants filed their claims as a general unsecured, non-priority claim. The Claims Agent appointed by the Court designated these claims as claim number 3025 and claim no. 3825 (collectively, the “Eisner Claims”).

Counsel for the Claimants and Debtors (collectively “Parties”) attended a scheduling conference held by the Court on August 27, 2014.

IT IS ORDERED that the following discovery schedule is established in this contested matter in connection with the Eisner Claims. Failure to comply with this Order shall result in appropriate sanctions.

1. The Parties shall serve written discovery requests by September 22, 2014. The Parties may serve additional written discovery requests thirty days prior to the close of fact discovery.
2. The Parties will use best efforts to provide all non-privileged documents responsive to the initial discovery requests by October 22, 2014.
3. Depositions shall commence on November 15, 2014, and shall be governed by Rule 30 of the Federal Rules of Civil Procedure, as made applicable to this adversary proceeding by Rule 7030 of the Federal Rules of Bankruptcy Procedure.
4. The Parties are entitled to take third party discovery on the same schedule as party fact discovery.
5. All fact discovery will conclude on January 30, 2015.
6. The Parties shall disclose the identities of any testifying expert witnesses and serve any expert reports pursuant to Rule 26(a)(2)(B) of the Federal Rules of Civil Procedure (made applicable to this matter pursuant to Rule 7026 of the Federal Rules of Bankruptcy Procedure) no later than February 13, 2015. All Parties will exchange expert reports on January 30, 2015.
7. Any Party's expert report intended to rebut any other expert report shall be served no later than March 23, 2014.
8. All expert depositions shall be completed on or before April 30, 2015.

9. All documents and discovery responses previously exchanged between the Parties, as well as the deposition of James O'Connell, shall be deemed to be part of this proceeding. All objections of the Parties as to the admissibility and use of such discovery and any subsequent discovery in this proceeding are preserved.

10. The Court shall hold a status conference on a date after April 30, 2015 to be determined in consultation with the Court, with respect to the venue for any dispositive motions and a trial.

11. Should a settlement be reached, counsel for the Parties shall promptly file any motion required by Rule 9019 of the Federal Rules of Bankruptcy procedure for approval of the settlement.

12. It is the responsibility of all counsel for the Parties to be thoroughly acquainted with and follow the procedures set forth in the statutes, the national and local bankruptcy rules, and the requirements of the judge.

13. The Clerk shall forward a copy of this order to all counsel of record.

14. This schedule is without prejudice to any Party seeking leave of the Court to adjust the discovery dates set forth herein as warranted.

SO ORDERED: Sep 25 2014

/s/ Kevin R. Huennekens  
UNITED STATES BANKRUPTCY JUDGE

Entered on Docket: 9/25/14

**WE ASK FOR THIS:**

/s/ Lynn L. Tavenner

Lynn L. Tavenner (VA Bar No. 30083)  
Paula S. Beran (VA Bar No. 34679)  
TAVENNER & BERAN PLC  
20 North Eighth Street, 2nd Floor  
Richmond, Virginia 23219  
Telephone: 804-783-8300  
Facsimile: 804-783-0178

-and-

James S. Carr, Esq.  
Nicholas J. Panarella, Esq.  
Kristin S. Elliott, Esq.  
Martin Krolewski, Esq.  
(admitted *pro hac vice*)  
KELLEY DRYE & WARREN LLP  
101 Park Avenue  
New York, New York 10178  
Telephone: (212) 808-7800  
Telecopy: (212) 808-7897

*Counsel to the Circuit City Stores, Inc.  
Liquidating Trust*

**SEEN AND AGREED:**

/s/ Kevin J. Funk

Kevin J. Funk, Esquire  
Durette Crump, PLC  
Bank of America Center, 16<sup>th</sup> Floor  
1111 East Main Street  
Richmond, VA 23219  
Telephone: (804) 343-4387  
Telecopy: (804) 775-6911

### **CERTIFICATION**

I hereby certify that the foregoing proposed Order has been either served on or endorsed by all necessary parties.

/s/ Lynn L. Tavenner  
Lynn L. Tavenner, Esquire (Va. Bar No. 30083)  
Tavenner & Beran, PLC  
20 North Eighth Street, 2nd Floor  
Richmond, Virginia 23219  
Telephone: (804) 783-8300  
Telecopy: (804) 783-0178

# **Exhibit B**

*Law Offices*  
**Marshall E. Kresman**  
*The Constitution Building*  
*1950 Street Road*  
*Suite 103*  
**Bensalem, PA 19020**  
Phone (215) 639-9933  
Fax (215) 639-8346

MARSHALL E. KRESMAN\*  
ALAN I. LOURIE \*†  
LOUIS DDBI, JR. \*

\* MEMBER OF PA AND NJ BARS  
† MEMBER OF O.C. BAR

6921 FRANKFORD AVENUE  
SUITE E  
PHILADELPHIA, PA 19135  
(215)338-7555

ONE GREENTREE CENTER  
SUITE 201  
1000 LINCOLN DRIVE EAST  
MARLTON, NJ 08053  
(856) 596-9333

PLEASE REPLY TO BENSALEM

December 29, 2014

Via Email: [mkrolewski@kelleydrye.com](mailto:mkrolewski@kelleydrye.com)

Kelley Drye & Warren LLP  
Martin A. Krolewski, Esquire  
101 Park Avenue  
New York, NY 10178

**Re: Eisner, et al. v. Circuit City Stores, Inc., et al.**  
**Case No.: 08-35653**

Dear Mr. Krolewski:

Enclosed please find the 12/18/14 expert report, CV and record of testimony of plaintiff's vocational expert H. Gary Broughton together with the 12/2/14 expert report of Dr. Norman Stempler and 8/12/13 expert certification of Dr. Brad Shimis. The said doctors and Mr. Broughton will testify, as experts at the trial in this matter in accord with their attached opinions.

Very truly yours,

Marshall E. Kresman

MEK/cg  
Enclosures

cc.: Kevin Funk (Via Email: [kfunk@durrettecrump.com](mailto:kfunk@durrettecrump.com) w/enclosures)





**BENSALEM ORTHOPEDICS, P.C.**  
**NORMAN B. STEMLER, D.O., ABPS, FAASOS**

*Board Certified Orthopedic Surgeon*

*William Burse, D.C.*

**2131 Galloway Road, Bensalem, PA 19020**

**Phone: (215) 604-1355, Fax: (215) 604-1358**

Berks County Orthopedics  
438 Walnut St., 2<sup>nd</sup> Floor  
Reading, PA 19601  
(610) 375-4002

Eastern PA Orthopedic Assoc.  
255 S. 17<sup>th</sup> St., 30<sup>th</sup> Floor  
Philadelphia, PA 19103  
(215) 735-5911

Olney Orthopedics  
199 W. Nedro Avenue  
Philadelphia, PA 19120  
(215) 548-0202

**ROY EISNER**

**PROGRESS REPORT**

ROY EISNER

12/02/14

Roy Eisner was seen by me this date for re-evaluation. He was initially seen on 09/04/08 as a result of the 04/08/08 work-related incident. He remains symptomatic in regard to his cervical, thoracic and lumbar spine.

He continues to have painful activity, as he relates. He denies radicular symptoms, and there has been no change in his bladder or bowel habits.

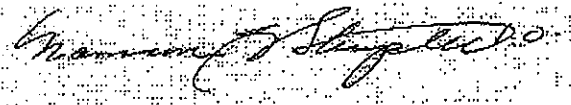
On examination, he has palpable tenderness in the paracervical, trapezial, paralumbar and sacroiliac areas, increased with attempted range of motion. He is neurologically intact.

My impression is that of:

1. Chronic, refractory and ongoing cervical, thoracic, lumbosacral and sacroiliac musculoligamentous injury, with a poor prognosis for full recovery.

Roy Eisner remains disabled from any physical labor, having sustained a serious and permanent injury to his spine as a direct result of the work-related incident of 04/08/08.

I believe that he has reached Maximum Medical Improvement.



Norman B. Stemler, D.O.  
NBS/vms  
Dictated but not read



**CERTIFICATION OF DR. BRAD SHAMIS, PH.D.**

1. I, Dr. Brad Shamis am the treating psychologist for Roy Eisner for his post-traumatic stress disorder resulting from his being physically attacked on April 8, 2008.
2. As a result of his post-traumatic stress disorder, Mr. Eisner is suffering from such overwhelming depression and anxiety that it has affected all important aspects of his daily life including causing him to suffer significant weight loss and other adverse health sequelae.
3. In my opinion as a consequence of his post traumatic stress disorder he is permanently and totally disabled from any gainful employment.
4. Because of the chronicity and ongoing severity of his symptomology from his post traumatic stress disorder it is my opinion that his psychological disorders including extreme anxiety and depression all resulting from the April 8, 2008 assault upon him are permanent in nature.

Dated: 8/12/13

  
Dr. Brad Shamis, Ph.D.



6802 Patterson Avenue • Richmond, Virginia 23226  
(804) 282-4199 • (800) 282-4177 • fax (804) 285-0540

# Broughton Associates, Inc.

Vocational Rehabilitation

December 18, 2014

Marshall E. Kresman, Esquire  
Marshall E. Kresman & Associates  
1950 Street Road  
Suite 103 Constitution Building  
Bensalem, Pennsylvania 19020

Re: Roy A. Eisner

## Introduction:

I have been asked to evaluate Roy A. Eisner's employability<sup>1</sup>, placeability<sup>2</sup>, and loss of earning capacity, if any, due to an assault that occurred at work on April 8, 2008.

*Earning Capacity is defined as the potential of a worker, possessing knowledge, skills, and abilities (KSA's) to work and earn money in a competitive labor market. The most commonly accepted definitions of earning capacity involve the amount of money a person can earn because of age, education, training, work experience and residual functional capacity (Duetsch & Sawyer, 1985; 1997; Field, Weed & Grimes, 1986; Field and Sink 1981).*

*Residual Functional Capacity is defined as what an individual can do in a work setting despite the functional limitations and environmental restrictions imposed by all of his/her medically exertional and non-exertional determinable impairment(s) (Blackwell, Field, Johnson, Kelsay & Neulicht, 2005, p. 194)*

In making this evaluation, I took into consideration Mr. Eisner's education, employment history, age, abilities, transferable skills, physical and psychological limitations, if any, the current Labor Market and availability of jobs, and any other factors that would affect his employment.

I conducted a Vocational Diagnostic Interview of Mr. Eisner on December 3, 2014 and reviewed the following information in order to evaluate his earning potential and ability to find employment.

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<sup>1</sup> Employability is the ability to: (1) meet worker requirements, (2) have access to work KSA's and (3) have the traits or occupational familiarity necessary to perform a job or the kinds and types of jobs on the basis of age, education, work experience and residual functional capacity (Field, 1999, pp. 1-6; 1987; Field & Weed, 1998; Weed, 2000; 1990).

<sup>2</sup> Placeability is defined as the worker's potential to be hired or placed within a given job in the local labor market (Field, 1999, p. 1-12; 1987; Field & Weed, 1999; Weed, 200, 1990) and by one's availability to interview and work (Deutsch & Sawyer, 2000; 1985).

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### Information and Records Reviewed:

- Frankford Hospital
- Dr. Brad Shamis & Associates, LLC
- Occupational Therapy & Rehabilitation Services, P.C.
- E.R. Nunez, P.C.
- Caine Chiropractic Center
- Bensalem Orthopedics, P.C. (Norman B. Stempler, D.O., ABPS, FAASOS)
- Clinical Pain Management Associates
- Gastroenterologists, Limited / Bucks County GI Endoscopic Surgical Center, LLC
- U.S. Individual Income Tax Returns & Pennsylvania Income Tax Returns (2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, and 2012)
- Robert P. Wolf, Ed.D., M.B.A. (Vocational-Economic Loss Report – 02/01/2011)

### Methodology:

- A. Obtaining facts and data specific to Roy A. Eisner and conducting a Vocational Diagnostic Interview telephonically on December 3, 2014.
- B. Analyzing Mr. Eisner's past work and determining transferable skills, if any, that he could use in future employment. I reviewed occupations that he is qualified to perform and also their availability in the geographic area in which he lives. In reviewing and researching these various types of jobs, I utilize, when appropriate or necessary, Traditional Vocational Source Documents (TSVDs) such as: *The Dictionary of Occupational Titles*, *Handbook for Analyzing Jobs (Revised)*, *The Occupational Outlook Handbook* and *A Guide to Rehabilitation* by Deutsch & Sawyer, and various appropriate websites.
- C. Researching salary ranges and other employment information particular to Mr. Eisner's ability to perform various types of jobs, by using the Bureau of Labor Statistics and other websites as necessary, and by conducting Labor Market Research.
- D. Methodology<sup>3</sup> was applied that is a long-standing model<sup>4</sup> in this field and has been peer reviewed, using sources that are commonly relied upon by Vocational

<sup>3</sup> The process of applying widely accepted methodology for analyzing cases from the perspective of Deutsch-Sawyer Criteria, Labor Market Access Theory Rationale & Research, VDARE analysis and The Vocational Expert Model and Methodology from OHIA Social Security Model and from well recognized Vocational Rehabilitation sources (Blackwell, 1991; Butler, V. J. 1991; Choppa, Shafer, & Siefker, 1977; Commission on Rehabilitation Counselor Certification (CRCC), 1994; Deutsch & Sawyer, 1997; Field & Field 1994, 1990; Field 1987; Field & Sink, 1981; Hannings & Ash, 1972; Jarrell, Hardy, & Martin, 1989; Martin, Sinsabaugh, Jarrell, & Hardy 1999; McCroskey, Streater, Wattenbarger, & Dennis 1997; Scalise, 1989; Strum, Otto, & Bakeman 1972, April; US Department of Labor, 1979; US Department of Labor, 1991a; 1991b; US Department of Labor, 2003; Weed & Field, 1990).

<sup>4</sup> Standard methodology for approaching career-vocational rehabilitation process includes (1) Collecting data (analysis), (2) synthesizing (i.e., the collating and summarizing of the data), (3) formulating an identification of the problems (diagnosis), (4) judging their probable reasonable consequences (prognosis), (5) rendering vocational opinions (i.e., operational advisement) and (6) assisting

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Experts, career and rehabilitation professionals. This methodology includes the following steps: (1) Collecting data and facts specific to the person being evaluated. (2) Synthesizing information and data, with an emphasis on employability. (3) Identifying problems by applying units of measure, factors and criteria found in the literature, vocational source documents and other material as cited in the text. (4) Determining probable reasonable consequences of problems identified as well as examples of jobs, if any, the person being assessed can perform. (5) Formulating vocational expert opinions.

- E. Formulating a vocational opinion based on the above noted sources and my research. Examples of my reports have been peer reviewed and found to be acceptable by the American Board of Vocational Experts.

#### **H. Gray Broughton's Qualifications:**

I graduated from Auburn University in 2005 with a M.Ed. in Vocational Rehabilitation and Special Education Rehabilitative Services. I graduated from the U.S. Army Command and General Staff College in 1979. I graduated from the University of Richmond in 1965 with a degree of Bachelor of Arts in Philosophy.

I am a Certified Rehabilitation Counselor and Certified Case Manager. I am a Senior Disability Analyst and Diplomate of the American Board of Disability Analysts. I am licensed as a Rehabilitation Provider with the Commonwealth of Virginia. I am a Certified Personnel Consultant and am accepted as a Vocational Expert by the Social Security Administration, Office of Hearings and Appeals. I am a Diplomate of the American Board of Vocational Experts.

I have over 32 years of experience as a vocational rehabilitation counselor, specializing in job placement and vocational assessments. During my career, I have assisted over 2000 people in attempting to find employment. This process included my making a vocational assessment of each client.

From 1999 to 2002, I was Commissioner, Department of Rehabilitative Services of the Commonwealth of Virginia. I was the agency head responsible for a complex multi-funded state agency with an operating budget of \$121,500,000 for DRS and \$24,500,000 for Woodrow Wilson Rehabilitation Center, which provides opportunities and assistance to individuals with physical, mental, or emotional disabilities in their efforts to obtain employment. My responsibilities included, but were not limited to, administrative oversight for 1095 employees, 43 Vocational Rehabilitation Field Offices, four Vocational Rehabilitation Regional Offices, and four Disability Determination Services Regional Offices.

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with the clarification of new problems or subsequent consequences (follow-up). (McGowan & Proter, 1967, p. 111; Jarrell, Martin, Sinsabaugh, & Hardy, 1999; Deutsch & Sawyer 2001; 2000; 1997; 1985)



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I have been accepted as a vocational expert witness in courts in the Commonwealth of Virginia, United States District Courts, the State of Florida, the District of Columbia, the Virginia Workers' Compensation Commission, the Industrial Commission of North Carolina, the Office of Hearings and Appeals, Social Security Administration, the District Court of West Virginia, the United States Department of Labor, Office of Administrative Law Judges, and the Court of Common Pleas for Philadelphia County.

In the past, I have been a board member of the Virginia Treatment Center for Children at the Medical College of Virginia and served as Chairman of its Resource and Development Committee. I have served as a member of the Governor's Board for People with Disabilities and was Chairman of the Employment Committee. I have served as a member of the National Association of Rehabilitation in the Professional Private Sector and was its Regional Director for Virginia from 1992 to 1993. I was Co-Chairman of its Legislative Committee. During the time I was Commissioner of the Department of Rehabilitative Services, I was a charter member and Treasurer of the National Organization of Rehabilitation Professionals (NORP). I received the Outstanding Service Award (2000-2001) Chi Sigma Iota, Alpha Psi Omega Chapter, at Virginia Commonwealth University, rehabilitation and counseling society. I served as Chairman of the Board of Directors for Northstar Academy (a school for children with special needs in Richmond, Virginia) from 2006 to 2008 and am a past member of the Richmond Workforce Investment Board (2006-2008).

At present, I am a member of the National Rehabilitation Association, the Virginia Rehabilitation Association, the International Association of Rehabilitation Professionals, and the Case Manager Society of America (Past President, Richmond Chapter). I am a Board Member and Diplomat of The American Board of Vocational Experts and served as the President (2011-2013) and past Treasurer (2008). I currently serve on the Board as immediate past President (2013-2015).

I have not authored any publications in the previous 30 years.

**Exhibits to Report:**

Exhibit "A" is Curriculum Vitae, Exhibit "B" is Record of Testimony (last four years) and Exhibit "C" is Fee Agreement.

**Medical:**

On April 8, 2008 Roy A. Eisner was attacked in the parking lot where he worked. The medical records I reviewed indicated the following:

*July 2, 2008 – Eusebio R. Nunez, M.D.*

*Impression:* Sprain and strain of the myoligamentous supporting structure of the

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*cervical, thoracic and lumbosacral spines, unresolved with associated myositis and stiffness of the related paraspinal muscles. Traumatic myositis of the upper trapezii with active tender points bilaterally. History of multiple contusions. History of closed head injury with posttraumatic headaches. Right eye trauma with decreased vision, under care.*

**August 18, 2008 – Caine Chiropractic Center – Roger Caine, D.C.**

Diagnosis:

*Post Traumatic Cervical Sprain/Strain (chronic)  
Post Traumatic Thoracic Sprain/Strain (chronic)  
Post Traumatic Lumbar Sprain/Strain (chronic)  
Post Traumatic Cervicogenic Headache Syndrome (chronic)  
Post Traumatic Vetebrogenic Pain Syndrome (multiple levels)  
Post Traumatic Segmental Dysfunction (multiple levels)  
Post Traumatic Myofascial Pain Syndrome*

**September 4, 2008 – Norman B. Stempler, D.O., ABPS, FASSOS**

Impressions:

- 1. Chronic, refractory cervical, thoracic and lumbosacral strain and sprain with myofascitis with somatic dysfunction.*
- 2. Myofascial syndrome.*

Comments:

*It is my professional opinion, within a reasonable degree of medical certainty, that there is a direct causal relationship between all of the patient's ongoing complaints and the incident related. Prognosis for a complete recovery is uncertain.*

**September 12, 2009 – Clinical Pain Management Associates – Mark Reznik, D.O.**

New Patient Evaluation – Impression:

- 1. Cervical and lumbar facet arthralgia.*
- 2. Lumbar degenerative disc disease.*
- 3. Myofascial pain.*

**August 12, 2013 – Dr. Brad Shamis & Associates, LLC – Brad Shamis, Ph.D.**

Certification of Dr. Brad Shamis, Ph.D.

- 1. I, Dr. Brad Shamis am the treating psychologist for Roy Eisner for his post-traumatic stress disorder resulting from his being physically attacked on April 8, 2008.*
- 2. As a result of his post-traumatic stress disorder, Mr. Eisner is suffering from such overwhelming depression and anxiety that it has affected all important aspects of his daily life including causing him to suffer significant weight loss and other adverse health sequelae.*
- 3. In my opinion as a consequence of his post-traumatic stress disorder he is permanently and totally disabled from any gainful employment.*
- 4. Because of the chronicity and ongoing severity of his symptomology from his post-traumatic stress disorder it is my opinion that his psychological disorders*

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*including extreme anxiety and depression all resulting from the April 8, 2008 assault upon him are permanent in nature.*

**December 2, 2014 – Bensalem Orthopedics, P. C. – Norman B. Stempler, D.O., ABPS, FASSOS**

Progress Report

*Roy Eisner was seen by me this date for re-evaluation. He was initially seen on 09/04/08 as a result of the 04/08/08 work-related incident. He remains symptomatic in regard to his cervical, thoracic and lumbar spine.*

*He continues to have painful activity, as he relates. He denies radicular symptoms, and there has been no change in his bladder or bowel habits.*

*On examination, he has palpable tenderness in the paracervical, trapezial, paralumbar and sacroiliac areas, increased with attempted range of motion. He is neurologically intact.*

*My impression is that of:*

*1. Chronic, refractory and ongoing cervical, thoracic, lumbosacral and sacroiliac musculoligamentous injury, with a poor prognosis for full recovery.*

*Roy Eisner remains disabled from any physical labor, having sustained a serious and permanent injury to his spine as a direct result of the work-related incident of 04/08/08.*

*I believe that he has reached Maximum Medical Improvement.*

**Vocational:**

I conducted a Vocational Diagnostic Interview, telephonically, of Roy A. Eisner on December 3, 2014 and he offered the following information.

Roy Alan Eisner is 58-years-old (DOB: 11/25/1956) and is a U.S. Citizen, born in Philadelphia, Pennsylvania. He resides at 5078 South Hunter Court, Bensalem, Pennsylvania 19020 with his wife Joanne. They have lived at this location for the last 24 years.

Mr. Eisner has never served in the U.S. Military, has a valid Pennsylvania driver's license and a good record, although he does not drive very much. He has no arrests or convictions. His hobbies and leisure time activities are watching television, visiting with his granddaughter and occasionally going out to eat.

In 1975 he graduated from Council Rock High School in Newtown, Pennsylvania. He did not attend college and learned his skills through on-the-job training. He was a dispatcher from 1980 to 1986 which is where he learned about the trucking business. In 1986 he started his own business, a small trucking company.

Work History:

1975 – 1980 Series of jobs:  
Furniture Department Manager at Wilco

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Assistant Manager for a finance company, handling customers and new loans.

1980 – 1986 Marck Express Terminal (Morrisville, PA) – Dispatcher

1986 – 1988 McHugh Brothers – Managed the drivers and coordinated shipments of equipment and other material.

1988 – 2004 RJ Trucking – Self Employed – Owner/Manager – Performed different functions including marketing and running the entire business. He had 10 drivers who were owner-operators. They were 18-wheelers and the drivers were required to have CDLs.

03/04 – 04/08 Spirit Delivery – Manager for the Circuit City location in Bristol, Pennsylvania. He handled the home deliveries of the products, managed the drivers, delivery complaints, and the administration. The used box trucks and the drivers were not required to have CLDs.

He was injured on April 8, 2008 and attempted to work, but was unable to, he left on April 12, 2008. He has not worked since then because of his injuries when he was attacked outside of the building when he was going to work. He was on Workers' Compensation and that case settled.

According to the tax information I reviewed, Mr. Eisner's gross wages were \$40,153 (2005), \$47,576 (2006), \$55,211 (2007) and \$19,038 (partial year 2008).

Medical: During my interview Mr. Eisner indicated the following:

Physical/Mental Status: Previous problems/illness, injuries, operations/General Health Information:

Date	Incident	Residual Problems
2000 or 2001	Rear ended by car & suffered whiplash. He was treated by a chiropractor and has fully recovered.	None / Resolved

Present Physical/Mental Treatment (doctors/treatments):

Doctor	Treatment	Date
Dr. Kenneth Morris	PCP	Every 3 months
Dr. Brad Shamis	Psychologist	Every 3 weeks

Physical/Mental Status: Current problems:

Item	No	Yes	Extent
Headaches/Dizziness		X	Headaches
Chest Pain/Discomfort	X		
Back Pain/Discomfort		X	
Stomach/Digestive Problems	X		
Urination/Elimination	X		
Other: Neck		X	

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Special problems with environment:

Condition	No	Yes	Comments
Heat		X	Occurs when air pressure changes because of barometric pressure
Cold		X	Occurs when air pressure changes because of barometric pressure
Wet/Humid		X	Makes pain worse
Dusty/Dirty	X		
Noisy		X	Causes headaches
Heights		X	
Vibrations		X	

Physical Status: Occurrence of Pain:

Pain Location	Pain Frequency	Pain Intensity
Neck	Constant	Spikes to 8
Entire Back (radiates into his shoulders)		Spikes to 8

Pain Scale of 0-10, 0 being no pain, 5 being moderate pain & 10 being unbearable and excruciating.

Physical Limitations:

Activity	None	Yes	Comments
Lifting		X	15 pounds occasionally
Talking		X	Difficulty choosing words
Hearing	X		
Sitting		X	15 minutes
Climbing		X	Difficult climbing steps, pain in back – no ladders
Balancing		X	
Stooping		X	Difficult – can't get back up
Breathing	X		
Driving		X	20 minutes – average
Feeling	X		
Reaching		X	Both shoulders/pain
Seeing		X	"Floaters in eye"
Standing		X	5 to 10 minutes maximum
Walking		X	1 block then has to rest
Bending		X	Difficult – can't get back up
Kneeling		X	Difficult – can't get back up
Sleeping		X	Takes Ambien

Present medication/dosages:

Medication(s)	Dosage	Reason
OxyContin	40 mg – 2xday	Pain
Oxycodone	15 mg – 2xday PRN	Pain
Ambien	12.5 mg extended relief	Sleep

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Flexeril

Muscle spasms

Emotional Status: He suffers with Post-Traumatic Stress Disorder (PTSD), anxiety, depression, frustration, and anger (for the most part has resolved by trying to forgive the person that attacked him). He is upset with the constant chronic pain he is suffering, the functional restrictions that he has, his restricted lifestyle, and the inability to perform full time gainful employment.

### Opinions / Conclusion:

My opinions are based upon the Vocational Diagnostic Interview I conducted, the information I received and reviewed; and my experience in the field of Vocational Rehabilitation, training and education. Therefore, I offer the following vocational opinions to a reasonable degree of vocational certainty.

#### 1. Pre-Injury Work & Earning Capacity:

When Roy Eisner was assaulted and injured on April 8, 2008, he was employed by Spirit Delivery as the manager for the Circuit City location in Bristol, Pennsylvania. The last full year he worked, 2007, he earned \$55,211.

Earning capacity is the ability to earn money on a sustained basis in the current Labor Market. The salary someone was earning at the time of their accident is not necessarily their earning capacity. However, in Mr. Eisner's case it is the most accurate indicator. Therefore his pre-injury earning capacity was \$55,211 per year which is what he earned the last full year he worked, 2007.

The work Mr. Eisner performed is was administrative, supervisory, and skilled. As far as exertional demands, his past work was classified at the sedentary and light Physical Demand Levels which are defined by the U.S. Department of Labor as:

*Sedentary Work – Lifting 10 lbs. maximum and occasionally lifting and/or carrying such articles as dockets, ledgers, and small tools. Although a sedentary job is defined as one which involves sitting, a certain amount of walking and standing is often necessary in carrying out job duties. Jobs are sedentary if walking and standing are required only occasionally and other sedentary criteria are met.*

*Light Work – Lifting 20 lbs. maximum with frequent lifting and/or carrying objects weighing up to 10 pounds. Even though the weight lifted may be only a negligible amount, a job is in this category when it involves sitting most of the time with a degree of pushing and pulling of arm and/or leg controls, or when it requires walking and standing to a significant degree.*

*Eisner, Roy  
December 18, 2014  
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## **2. Post-Injury Work & Earning Capacity:**

From the medical and psychological information, including but not limited to, Dr. Norman Stempler's report of December 2, 2014 and Dr. Brad Shamis, Ph.D.'s report of August 12, 2013, I reviewed and the information I gathered during my Vocational Diagnostic Interview of Mr. Eisner, it is my opinion, to a reasonable degree of vocational certainty, that Mr. Eisner is unemployable and not placeable in any competitive work activities, and he is totally disabled from gainful employment as a result of the injuries he received on April 8, 2008 when he was assaulted. He has suffered a total loss of earning capacity.

At the time he was injured his earning capacity was \$55,211 per year. Mr. Eisner expected to work until age 67 when he would be eligible to receive full Social Security Retirement Benefits. Therefore since his injuries of April 8, 2008, until his retirement at age 67, November 25, 2023 (15.7 years) he will suffer a total loss of earning capacity of \$866,812 ( $\$55,211 \times 15.7$  years). This is in current dollars, not adjusted for any other economic factors to include, but not limited to, inflation or reducing to present value.

Mr. Eisner was employed by Spirit Delivery as a delivery service and operations manager and indicated that he received the following benefits: basic medical, major medical, prescription, 401(k), and the employer's share of Social Security. The cost of his benefits package is conservatively projected at 15.3 percent of his earnings (Social Security and Medicare is 15.3%). His benefits are valued at \$8,447 ( $\$55,211 \times 15.3\%$ ). Therefore the value of his fringe benefits, until age 67, when he expected to retire is \$132,618 ( $\$8,447 \times 15.7$  years).

Therefore Mr. Eisner's total loss of earning capacity and Social Security and Medicare benefits is \$999,430 ( $\$866,812 + \$132,618$ ). This is in current dollars, not adjusted for any other economic factors per Pennsylvania law as set forth in Pennsylvania Supreme Court case *Kazkowski v. Bolulasz* 421 A2d.1027 (PA 1980) which held that the effect of the future inflation rate will completely off set the interest rate thereby eliminating any need to discount the award to its present value.

All of my opinions are expressed to a reasonable degree of vocational certainty. Since discovery is ongoing I reserve the right to take into consideration any additional information or documents including any Independent Medical Examinations, Functional Capacity Evaluations, and doctor's notes, as they become available, that would affect my opinion(s) concerning Roy A. Eisner's employability, placeability and earning capacity.

Respectfully submitted,

  
H. Gray Broughton, M.Ed., CRE, CCM, CRP  
Diplomate, American Board of Vocational Experts

*Eisner, Roy*  
*December 18, 2014*  
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HGB/pg

Enclosure(s)



Revised April, 2013  
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Exhibit A

**VITAE**

**H. GRAY BROUGHTON, CRC, CCM**  
**VOCATIONAL EXPERT**  
**BROUGHTON ASSOCIATES INCORPORATED**  
**6802 PATTERSON AVENUE RICHMOND, VIRGINIA 23226**  
**(804) 282-4199 (800) 282-4177**

**EMPLOYMENT**

**Chief Executive Officer, Owner, Broughton Associates, Inc.** 2002-Present

Vocational Expert, Job Placement Specialist and Rehabilitation Counselor. Duties: job placement, labor market surveys, medical coordination, staff supervisor, expert witness testimony, and disability management advisor. Specializing in vocational assessments and job placement of workers' compensation claimants. Analyzing and determining injured person's ability to find employment, given the residual effects of his or her injury, taking into consideration all factors that affect employability.

**Commissioner, Department of Rehabilitative Services** 1999-2002

Appointed by Governor James Gilmore in October 1999. Agency Head responsible for a complex multi-funded state agency with an operating budget of \$121,500,000 for DRS and \$24,500,000 for Woodrow Wilson Rehabilitation Center, which provides opportunities and assistance to individuals with physical, mental, or emotional disabilities in their efforts to obtain employment. Detailed responsibilities include, but not limited to, administrative oversight for:

- 1095 Employees
  - 43 Vocational Rehabilitation Field Offices
  - 4 Vocational Rehabilitation Regional Offices
  - 4 Disability Determination Services Regional Offices
  - 5 Major programmatic areas: Vocational Rehabilitation, Woodrow Wilson Rehabilitation Center, Disability Determination Services, Community-Based Programs, and Administrative Services.

**President, Owner, Broughton Associates, Inc.** 1982 - 1999

Vocational Expert, Job Placement Specialist and Rehabilitation Counselor. Duties: job placement, labor market surveys, medical coordination, staff supervision, vocational assessments, and expert witness testimony. Specialized in the job placement of workers' compensation claimants and vocational assessments. Analyzed and determined injured person's ability to find employment and their earning capacity, given the residual effects of his or her injury, taking into consideration all factors that affect his or her employability.

Page 2 of 2

### EDUCATION

1965 University of Richmond, BA in Philosophy  
1979 U.S. Army Command and General Staff College  
2005 Auburn University, M. Ed. in Rehabilitation and Special Education Rehabilitation Services

### CERTIFICATIONS

Certified Rehabilitation Counselor Certification (April 1991) - Commission on Rehabilitation Counselor Certification  
Certified Case Manager (November 1993) - Commission for Case Management Certification  
American Board of Disability Analysts (Senior Disability Analyst and Diplomat)  
Licensed as a Rehabilitation Provider with the Commonwealth of Virginia  
Certified Personnel Consultant  
American Board of Vocational Experts, Diplomate

### PROFESSIONAL ACTIVITIES & AWARDS

#### **Past:**

Board Member - Virginia Treatment Center for Children (Medical College of Virginia)  
Resource and Development Committee Chairman  
Member of the Governor's Board for People with Disabilities - Commonwealth of Va.  
Chairman of the Employment Committee  
National Association Rehab Professional Private Sector - Regional Director for Virginia (1992-1993). Co-Chairman of Legislative Committee.  
National Organization of Rehabilitation Professionals (NORP) - Charter Member and Treasurer (August 2001).  
Chi Sigma Iota, Alpha Psi Omega Chapter - Outstanding Service Award (2000 - 2001)  
Case Manager's Society of America, Richmond Chapter Vice President (2003-2004)  
Alpha Theta Chi Collegiate Honor Society, Auburn University (2005)  
Vocational Expert, Social Security Administration (Qualified)  
Case Manager's Society of America, Richmond Chapter President (2004-2005)  
Richmond Workforce Investment Board  
Northstar Academy Board of Directors, Chairman (A School for Special Needs Children) (2006-2008)  
Phi Kappa Phi Honor Society; Inducted April 30, 2008

#### **Present:**

American Board of Vocational Experts, Board of Directors, President (2011-2013), Past Treasurer (2008), Immediate Past President (2013-2015)  
National Rehabilitation Association  
Virginia Rehabilitation Association  
International Association of Rehabilitation Professionals  
Case Manager's Society of America, Central Virginia Chapter

### OTHER ACTIVITIES, PAST AND PRESENT

Richmond Jaycees - Director of the Year 1971	Association of the United States Army
United States Army Reserve -	Rotary Club
Rank: Lieutenant Colonel (Retired)	First Baptist Church
Transportation & Public Affairs	American Legion
Reserve Officers' Association	Shrine

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*December, 2014*  
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***Exhibit B***

**RECORD OF TESTIMONY**

Approximate list of cases in which H. Gray Broughton has testified at trial or deposition  
in the past four years:

**COURTS:**

**Name of Case:** Cindy A. Woodfork v. Laboratory Corporation of America, et al.  
**Name of Court:** Circuit Court of Prince William County  
**Date of Testimony:** December 9, 2014

**Name of Case:** Berliner v. Capuzzi  
**Name of Court:** Circuit Court of Henrico County  
**Date of Testimony:** December 1, 2014

**Name of Case:** Andrew Reinhart v. Katherine Reinhart  
**Name of Court:** Circuit Court for Prince William County  
**Date of Testimony:** November 26, 2014

**Name of Case:** Richard Spears v. William "Billy" L. Leonard, Jim's Motorcycle, Inc. d/b/a  
Atlas Honda, Yamaha, Kawasaki, Suzuki  
**Name of Court:** Circuit Court for the City of Bristol  
**Date of Testimony:** November 19, 2014

**Name of Case:** Terry E. Funkhouser, Jr. v. Jennifer Funkhouser  
**Name of Court:** Fairfax County Circuit Court  
**Date of Testimony:** November 18, 2014

**Name of Case:** Tyrome William Lott, Sr. v. MCH Transportation Co., et al.  
**Name of Court:** U.S. District Court; Eastern Division of Virginia  
**Date of Testimony:** November 13, 2014

**Name of Case:** Stephen P. Smith v. Nicole A. Smith  
**Name of Court:** Hopewell Circuit Court  
**Date of Testimony:** November 12, 2014

**Name of Case:** John E. Pruitt, III v. Chad Allen Burgess  
**Name of Court:** Spotsylvania Circuit Court  
**Date of Testimony:** September 30, 2014

**Name of Case:** Christopher Ole Geving v. Paulette Sharon Geving  
**Name of Court:** City of Chesapeake Circuit Court  
**Date of Testimony:** August 28, 2014

**Name of Case:** Christine F. O'Boyle v. Joseph Eugene O'Boyle  
**Name of Court:** Danville Circuit Court  
**Date of Testimony:** August 20, 2014

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***Exhibit B***

**Name of Case:** Jaquez Jones v. Branscome, Inc.  
**Name of Court:** City of Richmond Circuit Court  
**Date of Testimony:** August 15, 2014

**Name of Case:** LaBrie v. LaBrie  
**Name of Court:** Henrico County Circuit Court  
**Date of Testimony:** August 8, 2014

**Name of Case:** Perona v. Perona  
**Name of Court:** Northumberland County Circuit Court  
**Date of Testimony:** July 8, 2014

**Name of Case:** Schroder v. Schroder  
**Name of Court:** Circuit Court of Henrico County  
**Date of Testimony:** June 30, 2014

**Name of Case:** T. Johnson Childress, III v. Constance B. Childress  
**Name of Court:** Circuit Court of Henrico County  
**Date of Testimony:** June 16, 2014

**Name of Case:** Rita Jeanne Landin Loderick v. Stephen Michael Loderick  
**Name of Court:** Circuit Court of Henrico County  
**Date of Testimony:** June 9, 2014

**Name of Case:** Susan Fitzsimmons v. Patrick Fitzsimmons  
**Name of Court:** Circuit Court of Stafford County  
**Date of Testimony:** June 5, 2014

**Name of Case:** Rita Jeanne Landin Loderick v. Stephen Michael Loderick  
**Name of Court:** Circuit Court of Henrico County  
**Date of Testimony:** May 16, 2014

**Name of Case:** Perona v. Perona  
**Name of Court:** Northumberland County Circuit Court  
**Date of Testimony:** March 24, 2014

**Name of Case:** William L. Shields v. Ida J. Shields  
**Name of Court:** City of Chesapeake Circuit Court  
**Date of Testimony:** February 17, 2014

**Name of Case:** Sohail v. Sohail  
**Name of Court:** Circuit Court of the County of Henrico  
**Date of Testimony:** February 3, 2014

**Name of Case:** Brown v. Brown  
**Name of Court:** Circuit Court of the County of Chesterfield  
**Date of Testimony:** January 9, 2014

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***Exhibit B***

**Name of Case:** Bret Lovejoy v. Print Management, Inc., et al.  
**Name of Court:** Circuit Court of the City of Alexandria  
**Date of Testimony:** November 25, 2013

**Name of Case:** Raul D. Padilla v. Norfolk Southern Railway Company  
**Name of Court:** Circuit Court of Charlottesville  
**Date of Testimony:** October 31, 2013

**Name of Case:** Douglas Edward Keith v. Elena Victoria Keith  
**Name of Court:** Arlington Circuit Court  
**Date of Testimony:** October 30, 2013

**Name of Case:** Bernard v. Bernard  
**Name of Court:** Fairfax Circuit Court  
**Date of Testimony:** October 23, 2013

**Name of Case:** Virginia deCamp v. Philip deCamp  
**Name of Court:** Williamsburg Circuit Court  
**Date of Testimony:** October 17, 2013

**Name of Case:** Clyde Cross v. Brenda Spears  
**Name of Court:** Henry County Circuit Court  
**Date of Testimony:** September 30, 2013

**Name of Case:** Barker v. Barker  
**Name of Court:** Lynchburg Circuit Court  
**Date of Testimony:** September 26, 2013

**Name of Case:** Kirk v. Kirk  
**Name of Court:** Fairfax Circuit Court  
**Date of Testimony:** September 10, 2013

**Name of Case:** Brenzie v. Brenzie  
**Name of Court:** Chesterfield County Juvenile & Domestic Court  
**Date of Testimony:** August 23, 2013

**Name of Case:** Crystal Aswell Fitzwater v. C.A. Perry & Son Transit, Inc., et al  
**Name of Court:** Suffolk Circuit Court  
**Date of Testimony:** August 20, 2013

**Name of Case:** Penelope Minter v. District of Columbia  
**Name of Court:** United States District Court for the District of Columbia  
**Date of Testimony:** August 7, 2013

**Name of Case:** Bonamassa v. Bonamassa  
**Name of Court:** Loudoun Circuit Court  
**Date of Testimony:** August 6, 2013

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***Exhibit B***

Name of Case: Colman v. Colman

Name of Court: York Circuit Court

Date of Testimony: July 29, 2013

Name of Case: Carrie Gitter v. Richard Gitter

Name of Court: Stafford Circuit Court

Date of Testimony: June 12, 2013

Name of Case: Ward v. Ward

Name of Court: Gloucester Circuit Court

Date of Testimony: May 16, 2013

Name of Case: Ann Gallier Parsons v. James Leonard Parsons

Name of Court: Goochland County Circuit Court

Date of Testimony: May 7, 2013

Name of Case: Paul Wood v. Barbara Wood

Name of Court: Louisa County Circuit Court

Date of Testimony: April 4, 2013

Name of Case: Preston Scott Cross v. Carole Cassidy Cross

Name of Court: Lynchburg Circuit Court

Date of Testimony: March 28, 2013

Name of Case: Toni I. Mastro v. Christopher A. Mastro

Name of Court: Chesterfield County Circuit Court

Date of Testimony: February 25, 2013

Name of Case: Pamala Ann Cerisano v. Eugene A. Cerisano

Name of Court: Chesterfield County Circuit Court

Date of Testimony: February 20, 2013

Name of Case: Mooz v. Mooz

Name of Court: Hanover County Circuit Court

Date of Testimony: January 24, 2013

Name of Case: Kenneth Wayne Meyer v. Karen Sue Meyer

Name of Court: Williamsburg Circuit Court

Date of Testimony: January 16, 2013

Name of Case: Karen Lee Derrico v. Jack Alan Derrico

Name of Court: Fairfax County Circuit Court

Date of Testimony: December 27, 2012

Name of Case: James Weatherford, Jr. v. Electric Power, Inc. & Richard Browning  
& Benjamin Davis

Name of Court: Henrico County Circuit Court

Date of Testimony: December 18, 2012

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***Exhibit B***

**Name of Case:** Christina Fontanilla v. Shannon Fontanilla  
**Name of Court:** Fluvanna County Circuit Court.  
**Date of Testimony:** December 14, 2012

**Name of Case:** Amy Fay Alliston v. Clarence Edward Hall, II  
**Name of Court:** Prince Edward County Circuit Court  
**Date of Testimony:** December 13, 2012

**Name of Case:** Hillsman v. Hillsman  
**Name of Court:** Circuit Court of Chesterfield County  
**Date of Testimony:** December 11, 2012

**Name of Case:** Oestreich v. Oestreich  
**Name of Court:** Circuit Court of Chesterfield County  
**Date of Testimony:** December 5, 2012

**Name of Case:** Bridgette M. Presson v. Christopher N. Presson  
**Name of Court:** York County-Poquoson Circuit Court  
**Date of Testimony:** November 26, 2012

**Name of Case:** Thomas E. Karow v. Belinda G. Karow  
**Name of Court:** Mathews County Circuit Court  
**Date of Testimony:** November 13, 2012

**Name of Case:** Marjolijn L. Francissen v. Jerome King  
**Name of Court:** Loudoun County Circuit Court  
**Date of Testimony:** November 7, 2012

**Name of Case:** Ryan D. Horne v. Lisa M. Martin, Virginia Beach Life Saving Service, Inc. and  
City of Virginia Beach, Virginia  
**Date of Deposition:** November 5, 2012

**Name of Case:** Courtney E. Powell v. Timothy B. Powell  
**Name of Court:** Circuit Court of the City of Williamsburg and the County of James City  
**Date of Testimony:** November 1, 2012

**Name of Case:** Mary Miskell v. Dale Miskell  
**Name of Court:** Circuit Court of Loudoun County  
**Date of Testimony:** October 9, 2012

**Name of Case:** Joseph Scott Jones, Jr. An infant who sues by Angela Marrow v. William S.  
Ervin, III, M.D.  
**Date of Deposition:** October 3, 2012

**Name of Case:** Norman Seth Rosenbaum v. Maureen Mandwelle Rosenbaum  
**Name of Court:** Henrico County Circuit Court  
**Date of Testimony:** September 18, 2012

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***Exhibit B***

**Name of Case:** Zachary T. Owen v. Randy T. Powell  
**Name of Court:** Halifax County Circuit Court  
**Date of Testimony:** September 6, 2012

**Name of Case:** Kristine Turner v. Scott Turner  
**Name of Court:** Circuit Court of Prince William County  
**Date of Testimony:** August 29, 2012

**Name of Case:** Julie B. Johnson v. James R. Johnson  
**Name of Court:** Juvenile and Domestic Court of Henrico County  
**Date of Testimony:** August 28, 2012

**Name of Case:** Wendy Kelly v. Thomas Kelly, III  
**Name of Court:** Circuit Court of Hanover County  
**Date of Testimony:** June 27, 2012

**Name of Case:** Shepherd McKnight Smith v. Aimee Labuy Smith  
**Name of Court:** Circuit Court of Fairfax County  
**Date of Testimony:** June 27, 2012

**Name of Case:** Janet Brinegar v. Richard Earle Brinegar  
**Name of Court:** Circuit Court of the County of Henrico  
**Date of Testimony:** June 25, 2012

**Name of Case:** Shepherd McKnight Smith v. Aimee Labuy Smith  
**Name of Court:** Circuit Court of Fairfax County  
**Date of Testimony:** June 14, 2012

**Name of Case:** Czyzewski v. Czyzewski  
**Name of Court:** Circuit Court of Chesterfield County  
**Date of Testimony:** June 4, 2012

**Name of Case:** Lisa Kestner Quigley v. Michael John Quigley  
**Name of Court:** Circuit Court of Chesterfield County  
**Date of Testimony:** May 18, 2012

**Name of Case:** Tammy L. Morris v. Patrick J. Morris  
**Name of Court:** Circuit Court of Augusta County  
**Date of Testimony:** April 4, 2012

**Name of Case:** Mary Anne Moniz Gernon v. Lawrence W. Gernon  
**Name of Court:** Circuit Court of the City of Richmond  
**Date of Testimony:** March 30, 2012

**Name of Case:** Patricia J. Wishart v. James W. Wishart  
**Name of Court:** Circuit Court of Fairfax County  
**Date of Testimony:** March 28, 2012



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***Exhibit B***

**Name of Case:** Tommy Lee Marlowe v. Brandon Alexander Smith & Gary W. smith  
Contractor, Inc.

**Name of Court:** Henry County Circuit Court

**Date of Testimony:** March 27, 2012

**Name of Case:** Virginia P. Moore v. James C. McGee

**Name of Court:** Culpeper County Circuit Court

**Date of Testimony:** February 16, 2012

**Name of Case:** Hicks v. Hicks

**Name of Court:** Bedford County Circuit Court

**Date of Testimony:** January 23, 2012

**Name of Case:** Kevin M. Dix v. Christine M. Verhagen

**Name of Court:** Culpeper County Circuit Court

**Date of Testimony:** January 20, 2012

**Name of Case:** Stephanie W. Marcus v. Richard M. Marcus

**Name of Court:** Henrico County Circuit Court

**Date of Testimony:** January 17, 2012

**Name of Case:** Burns v. Burns

**Name of Court:** Prince William Circuit Court

**Date of Testimony:** January 11, 2012

**Name of Case:** Natalie Taylor v. Joshua Taylor

**Name of Court:** Stafford County Juvenile and Domestic Relations Court

**Date of Testimony:** January 5, 2012

**Name of Case:** Stephanie Henke v. Michael Henke

**Name of Court:** County of King George Circuit Court

**Date of Testimony:** September 30, 2011

**Name of Case:** Selina Heslep v. Donald Heslep

**Name of Court:** County of Chesterfield Circuit Court

**Date of Testimony:** September 7, 2011

**Name of Case:** Ellen Walter Spence v Ronald Eugene Spence

**Name of Court:** County of Gloucester Circuit Court

**Date of Testimony:** September 1, 2011

**Name of Case:** Marcus v. Marcus

**Name of Court:** County of Henrico Circuit Court

**Date of Testimony:** August 22, 2011

**Name of Case:** Selina Heslep v. Donald Heslep

**Name of Court:** County of Chesterfield Circuit Court

**Date of Testimony:** August 12, 2011

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*December, 2014*

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***Exhibit B***

**Name of Case:** Ramey v. Ramey  
**Name of Court:** City of Richmond Circuit Court  
**Date of Testimony:** June 27, 2011

**Name of Case:** Saunders v. Saunders  
**Name of Court:** Chesterfield County Circuit Court  
**Date of Testimony:** June 10, 2011

**Name of Case:** Almaz Kebede Shibeshi v. Henry Amis, d/b/a/ Henry Amis Trucking and  
Michael Todd Peterson  
**Name of Court:** Circuit Court of Fairfax County  
**Date of Testimony:** May 17, 2011

**Name of Case:** Michael J. Morak v. Sharon H. Morak  
**Name of Court:** Chesterfield County Circuit Court  
**Date of Testimony:** April 18, 2011

**Name of Case:** Davey Ingram v. Linda Ingram  
**Name of Court:** Loudoun County Circuit Court  
**Date of Testimony:** March 1, 2011

**Name of Case:** Christine M. LaFleur v. Wayne F. LaFleur  
**Name of Court:** Circuit Court of the County of Greene  
**Date of Testimony:** February 22, 2011

**Name of Case:** Lisa Ackerman Seeman v. Benjamin Seeman  
**Name of Court:** Circuit Court of Henrico County  
**Date of Testimony:** February 22, 2011

**Name of Case:** Edith Clausing v Timothy Clausing  
**Name of Court:** Circuit Court of Hanover County  
**Date of Testimony:** February 18, 2011

**Name of Case:** James Russell Marcoe v Darlene Frances Marcoe  
**Name of Court:** Circuit Court of Fairfax County  
**Date of Testimony:** January 5, 2011

**Name of Case:** Jeffrey Beck v Kari Beck  
**Name of Court:** Circuit Court of Goochland County  
**Date of testimony:** November 2, 2010

Exhibit C

**FEE AGREEMENT**

I, \_\_\_\_\_, agree to pay Broughton Associates, Inc., the following sums for the following services:

1. \$225 an hour for the preparation necessary to support vocational opinions in connection with the \_\_\_\_\_ proceeding. In addition, this same rate is applicable to all pre-trial conferences and meetings involving this case. Depositions by opposing counsel it is required that they estimate the amount of time (at \$450 for the first hour and \$225 per hour thereafter) for the deposition (including travel time to and from Richmond) and a check in that amount be received prior to the date of the deposition. Mileage will also be charged at the current IRS rate. Any additional fees will be billed.
2. If the case is settled or testimony at trial or by deposition is canceled for whatever reason, and at least 2 full working days notice in advance is given, Broughton Associates, Inc. will not charge for the time lost in reserving time to be present to present testimony. Any used portion of the retainer beyond \$500 will be refunded upon notification to Broughton Associates, Inc. that no further work is to be performed. **A retainer of \$\_\_\_\_\_ is required. The retainer is a deposit for work; the final fee may be greater than the retainer.**
3. If the case settles, or for any other reason Broughton Associates, Inc. is not needed for testimony and 2 full working days notice is not given, then we agree to pay Broughton Associates, Inc. for 4 hours lost time at \$225 an hour (\$900).
4. Travel time will be prorated when possible and charged at \$225 an hour. Mileage will also be prorated and billed at the current standard IRS rate per mile.
5. Collection: If my account is referred to an attorney for collection, upon said referral, I agree to pay attorney's fees in the amount of thirty-three & one-third percent (33 1/3%) of the total outstanding indebtedness then due and all costs of collection. I agree to pay the above said attorney's fees and costs of collection whether or not the attorney files suit. In any action taken to collect the amount due from the undersigned, undersigned agrees that venue would be proper and appropriate in Henrico County or the City of Richmond, Virginia.

Fees for professional service are due upon receipt of invoice. Balances carried longer than 30 days, will have added, a monthly finance charge of 1.5 percent. In addition, since Broughton Associates, Inc. has no contingency interest in this case, all fees are payable irrespective of the outcome of the trial. I/We understand and agree to the above.

H. Gray Broughton  
H. Gray Broughton

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

Revised 09.01.2014

# **Exhibit C**

**KELLEY DRYE & WARREN LLP**

A LIMITED LIABILITY PARTNERSHIP

**101 PARK AVENUE  
NEW YORK, NY 10178**

(212) 808-7800

WASHINGTON, DC  
LOS ANGELES, CALIFORNIA  
CHICAGO, IL  
STAMFORD, CT  
PARSIPPANY, NJ

BRUSSELS, BELGIUM

AFFILIATE OFFICE  
MUMBAI, INDIA

FACSIMILE  
(212) 808-7897  
www.kelleydrye.com

MARTIN A. KROLEWSKI  
DIRECT LINE: (212) 808-5137  
EMAIL: mkrolawski@kelleydrye.com

March 5, 2015

**VIA FIRST CLASS U.S. MAIL AND E-MAIL**

Marshall E. Kresman, Esq.  
Law Offices of Marshall E. Kresman  
1950 Street Road, Suite 103  
The Constitution Building  
Bensalem, PA 19020

Re: *Roy and Joanne Eisner v. Circuit City Stores, Inc.*,  
Case No. 08-35653 Claim Nos. 3025 and 3852

Dear Marshall:

I write concerning your December 29, 2014 letter disclosing Roy Eisner's testifying expert witnesses and attaching their expert reports pursuant to the Court's Discovery Scheduling Order ("Discovery Order") entered on September 25, 2014 (Docket No. 13437). The expert reports of Dr. Brad Shamis and Dr. Norman Stempler attached to your letter fail to satisfy the requirements set forth in Rule 26(a)(2)(B) of the Federal Rules of Civil Procedure for expert reports and as such also violate the Discovery Order. Accordingly, the Circuit City Stores, Inc. Liquidating Trust objects to these reports and reserves all of its rights and remedies in connection with Dr. Shamis and Dr. Stempler serving as testifying expert witnesses in this matter.

Very truly yours,

  
Martin A. Krolewski

cc: Kevin J. Funk, Esq. (via E-mail)  
Nicholas J. Panarella, Esq.

# **Exhibit D**

*Law Offices*  
**Marshall E. Kresman**  
*The Constitution Building*  
*1950 Street Road*  
*Suite 103*  
**Bensalem, PA 19020**  
Phone (215) 639-9933  
Fax (215) 639-8346

MARSHALL E. KRESMAN\*  
ALAN I. LDURIE\*†  
LDUIS DD81, JR.\*

\* MEMBER OF PA AND NJ BARS  
† MEMBER OF D.C. BAR

6745 TORRESDALE AVENUE  
PHILADELPHIA, PA 19135  
(215)338-7555

ONE GREENTREE CENTER  
SUITE 201  
10000 LINCOLN DRIVE EAST  
MARLTON, NJ 08053  
(856) 596-9333

PLEASE REPLY TO BENSALEM

March 6, 2015

Via Email: [mkrolewski@kelleydrye.com](mailto:mkrolewski@kelleydrye.com)

Kelley Drye & Warren LLP  
Martin A. Krolewski, Esquire  
101 Park Avenue  
New York, NY 10178

Re: Eisner, et al. v. Circuit City Stores, Inc., et al.  
Case No.: 08-35653

Dear Mr. Krolewski:

Enclosed please find the Curriculum Vitae and testimony lists for the following expert witnesses; H. Gray Broughton, CRC, CCM, whose report fee is \$2,500 and testimony fee is attached; treating psychologist Brad Shamis, Ph.D. whose testimony fee is \$750.00, and of Dr. Norman Stempler whose report fee is \$350.00 and testimony fee is \$3,000.00/\$3,500.00. The C.V. testimony list and fees for treating physician Dr. Kenneth Morris will be supplied to you once received by my office. The C.V. and statement of no cases testified to by treating physician Dr. Rodger Caine, D.C. is also attached.

Very truly yours,

Marshall E. Kresman

MEK/jjb  
Enclosures

cc.: Kevin Funk (Via Email: [kfunk@durrettecrump.com](mailto:kfunk@durrettecrump.com) w/enclosures)





Exhibit C

***FEE AGREEMENT***

I, \_\_\_\_\_, agree to pay Broughton Associates, Inc., the following sums for the following services:

1. \$225 an hour for the preparation necessary to support vocational opinions in connection with the \_\_\_\_\_ proceeding. In addition, this same rate is applicable to all pre-trial conferences and meetings involving this case. Depositions by opposing counsel it is required that they estimate the amount of time (at \$450 for the first hour and \$225 per hour thereafter) for the deposition (including travel time to and from Richmond) and a check in that amount be received prior to the date of the deposition. Mileage will also be charged at the current IRS rate. Any additional fees will be billed.

2. If the case is settled or testimony at trial or by deposition is canceled for whatever reason, and at least 2 full working days notice in advance is given, Broughton Associates, Inc. will not charge for the time lost in reserving time to be present to present testimony. Any used portion of the retainer beyond \$500 will be refunded upon notification to Broughton Associates, Inc. that no further work is to be performed. A retainer of \$\_\_\_\_\_ is required. **The retainer is a deposit for work; the final fee may be greater than the retainer.**

3. If the case settles, or for any other reason Broughton Associates, Inc. is not needed for testimony and 2 full working days notice is not given, then we agree to pay Broughton Associates, Inc. for 4 hours lost time at \$225 an hour (\$900).

4. Travel time will be prorated when possible and charged at \$225 an hour. Mileage will also be prorated and billed at the current standard IRS rate per mile.

5. Collection: If my account is referred to an attorney for collection, upon said referral, I agree to pay attorney's fees in the amount of thirty-three & one-third percent (33 1/3%) of the total outstanding indebtedness then due and all costs of collection. I agree to pay the above said attorney's fees and costs of collection whether or not the attorney files suit. In any action taken to collect the amount due from the undersigned, undersigned agrees that venue would be proper and appropriate in Henrico County or the City of Richmond, Virginia.

Fees for professional service are due upon receipt of invoice. Balances carried longer than 30 days, will have added, a monthly finance charge of 1.5 percent. In addition, since Broughton Associates, Inc. has no contingency interest in this case, all fees are payable irrespective of the outcome of the trial. I/We understand and agree to the above.

H. Gray Broughton  
H. Gray Broughton

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

Revised 09.01.2014

Revised April, 2013  
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*Exhibit A*

**VITAE**

**H. GRAY BROUGHTON, CRC, CCM**  
**VOCATIONAL EXPERT**  
**BROUGHTON ASSOCIATES INCORPORATED**  
**6802 PATTERSON AVENUE RICHMOND, VIRGINIA 23226**  
**(804) 282-4199 (800) 282-4177**

**EMPLOYMENT**

**Chief Executive Officer, Owner, Broughton Associates, Inc. 2002-Present**

Vocational Expert, Job Placement Specialist and Rehabilitation Counselor. Duties: job placement, labor market surveys, medical coordination, staff supervisor, expert witness testimony, and disability management advisor. Specializing in vocational assessments and job placement of workers' compensation claimants. Analyzing and determining injured person's ability to find employment, given the residual effects of his or her injury, taking into consideration all factors that affect employability.

**Commissioner, Department of Rehabilitative Services 1999-2002**

Appointed by Governor James Gilmore in October 1999. Agency Head responsible for a complex multi-funded state agency with an operating budget of \$121,500,000 for DRS and \$24,500,000 for Woodrow Wilson Rehabilitation Center, which provides opportunities and assistance to individuals with physical, mental, or emotional disabilities in their efforts to obtain employment. Detailed responsibilities include, but not limited to, administrative oversight for:

- 1095 Employees
- 43 Vocational Rehabilitation Field Offices
- 4 Vocational Rehabilitation Regional Offices
- 4 Disability Determination Services Regional Offices
- 5 Major programmatic areas: Vocational Rehabilitation, Woodrow Wilson Rehabilitation Center, Disability Determination Services, Community-Based Programs, and Administrative Services.

**President, Owner, Broughton Associates, Inc. 1982 - 1999**

Vocational Expert, Job Placement Specialist and Rehabilitation Counselor. Duties: job placement, labor market surveys, medical coordination, staff supervision, vocational assessments, and expert witness testimony. Specialized in the job placement of workers' compensation claimants and vocational assessments. Analyzed and determined injured person's ability to find employment and their earning capacity, given the residual effects of his or her injury, taking into consideration all factors that affect his or her employability.

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### EDUCATION

1965 University of Richmond, BA in Philosophy  
1979 U.S. Army Command and General Staff College  
2005 Auburn University, M. Ed. in Rehabilitation and Special Education Rehabilitation Services

### CERTIFICATIONS

Certified Rehabilitation Counselor Certification (April 1991) - Commission on Rehabilitation Counselor Certification  
Certified Case Manager (November 1993) - Commission for Case Management Certification  
American Board of Disability Analysts (Senior Disability Analyst and Diplomat)  
Licensed as a Rehabilitation Provider with the Commonwealth of Virginia  
Certified Personnel Consultant  
American Board of Vocational Experts, Diplomate

### PROFESSIONAL ACTIVITIES & AWARDS

#### Past:

Board Member - Virginia Treatment Center for Children (Medical College of Virginia)  
Resource and Development Committee Chairman  
Member of the Governor's Board for People with Disabilities - Commonwealth of Va.  
Chairman of the Employment Committee  
National Association Rehab Professional Private Sector - Regional Director for Virginia (1992-1993). Co-Chairman of Legislative Committee.  
National Organization of Rehabilitation Professionals (NORP) - Charter Member and Treasurer (August 2001).  
Chi Sigma Iota, Alpha Psi Omega Chapter - Outstanding Service Award (2000 - 2001)  
Case Manager's Society of America, Richmond Chapter Vice President (2003-2004)  
Alpha Theta Chi Collegiate Honor Society, Auburn University (2005)  
Vocational Expert, Social Security Administration (Qualified)  
Case Manager's Society of America, Richmond Chapter President (2004-2005)  
Richmond Workforce Investment Board  
Northstar Academy Board of Directors, Chairman (A School for Special Needs Children) (2006-2008)  
Phi Kappa Phi Honor Society; Inducted April 30, 2008

#### Present:

American Board of Vocational Experts, Board of Directors, President (2011-2013), Past Treasurer (2008), Immediate Past President (2013-2015)  
National Rehabilitation Association  
Virginia Rehabilitation Association  
International Association of Rehabilitation Professionals  
Case Manager's Society of America, Central Virginia Chapter

### OTHER ACTIVITIES, PAST AND PRESENT

Richmond Jaycees - Director of the Year 1971	Association of the United States Army
United States Army Reserve -	Rotary Club
Rank: Lieutenant Colonel (Retired)	First Baptist Church
Transportation & Public Affairs	American Legion
Reserve Officers' Association	Shrine

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**Exhibit B**

**RECORD OF TESTIMONY**

Approximate list of cases in which H. Gray Broughton has testified at trial or deposition  
in the past four years:

**COURTS:**

**Name of Case:** Cindy A. Woodfork v. Laboratory Corporation of America, et al.  
**Name of Court:** Circuit Court of Prince William County  
**Date of Testimony:** December 9, 2014

**Name of Case:** Berliner v. Capuzzi  
**Name of Court:** Circuit Court of Henrico County  
**Date of Testimony:** December 1, 2014

**Name of Case:** Andrew Reinhart v. Katherine Reinhart  
**Name of Court:** Circuit Court for Prince William County  
**Date of Testimony:** November 26, 2014

**Name of Case:** Richard Spears v. William "Billy" L. Leonard, Jim's Motorcycle, Inc. d/b/a  
Atlas Honda, Yamaha, Kawasaki, Suzuki  
**Name of Court:** Circuit Court for the City of Bristol  
**Date of Testimony:** November 19, 2014

**Name of Case:** Terry E. Funkhouser, Jr. v. Jennifer Funkhouser  
**Name of Court:** Fairfax County Circuit Court  
**Date of Testimony:** November 18, 2014

**Name of Case:** Tyrome William Lott, Sr. v. MCH Transportation Co., et al.  
**Name of Court:** U.S. District Court, Eastern Division of Virginia  
**Date of Testimony:** November 13, 2014

**Name of Case:** Stephen P. Smith v. Nicole A. Smith  
**Name of Court:** Hopewell Circuit Court  
**Date of Testimony:** November 12, 2014

**Name of Case:** John E. Pruitt, III v. Chad Allen Burgess  
**Name of Court:** Spotsylvania Circuit Court  
**Date of Testimony:** September 30, 2014

**Name of Case:** Christopher Ole Geving v. Paulette Sharon Geving  
**Name of Court:** City of Chesapeake Circuit Court  
**Date of Testimony:** August 28, 2014

**Name of Case:** Christine F. O'Boyle v. Joseph Eugene O'Boyle  
**Name of Court:** Danville Circuit Court  
**Date of Testimony:** August 20, 2014

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***Exhibit B***

**Name of Case:** Jaquez Jones v. Branscome, Inc.  
**Name of Court:** City of Richmond Circuit Court  
**Date of Testimony:** August 15, 2014

**Name of Case:** LaBrie v. LaBrie  
**Name of Court:** Henrico County Circuit Court  
**Date of Testimony:** August 8, 2014

**Name of Case:** Perona v. Perona  
**Name of Court:** Northumberland County Circuit Court  
**Date of Testimony:** July 8, 2014

**Name of Case:** Schroder v. Schroder  
**Name of Court:** Circuit Court of Henrico County  
**Date of Testimony:** June 30, 2014

**Name of Case:** T. Johnson Childress, III v. Constance B. Childress  
**Name of Court:** Circuit Court of Henrico County  
**Date of Testimony:** June 16, 2014

**Name of Case:** Rita Jeanne Landin Loderick v. Stephen Michael Loderick  
**Name of Court:** Circuit Court of Henrico County  
**Date of Testimony:** June 9, 2014

**Name of Case:** Susan Fitzsimmons v. Patrick Fitzsimmons  
**Name of Court:** Circuit Court of Stafford County  
**Date of Testimony:** June 5, 2014

**Name of Case:** Rita Jeanne Landin Loderick v. Stephen Michael Loderick  
**Name of Court:** Circuit Court of Henrico County  
**Date of Testimony:** May 16, 2014

**Name of Case:** Perona v. Perona  
**Name of Court:** Northumberland County Circuit Court  
**Date of Testimony:** March 24, 2014

**Name of Case:** William L. Shields v. Ida J. Shields  
**Name of Court:** City of Chesapeake Circuit Court  
**Date of Testimony:** February 17, 2014

**Name of Case:** Sohail v. Sohail  
**Name of Court:** Circuit Court of the County of Henrico  
**Date of Testimony:** February 3, 2014

**Name of Case:** Brown v. Brown  
**Name of Court:** Circuit Court of the County of Chesterfield  
**Date of Testimony:** January 9, 2014

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***Exhibit B***

**Name of Case:** Bret Lovejoy v. Print Management, Inc., et al.  
**Name of Court:** Circuit Court of the City of Alexandria  
**Date of Testimony:** November 25, 2013

**Name of Case:** Raul D. Padilla v. Norfolk Southern Railway Company  
**Name of Court:** Circuit Court of Charlottesville  
**Date of Testimony:** October 31, 2013

**Name of Case:** Douglas Edward Keith v. Elena Victoria Keith  
**Name of Court:** Arlington Circuit Court  
**Date of Testimony:** October 30, 2013

**Name of Case:** Bernard v. Bernard  
**Name of Court:** Fairfax Circuit Court  
**Date of Testimony:** October 23, 2013

**Name of Case:** Virginia deCamp v. Philip deCamp  
**Name of Court:** Williamsburg Circuit Court  
**Date of Testimony:** October 17, 2013

**Name of Case:** Clyde Cross v. Brenda Spears  
**Name of Court:** Henry County Circuit Court  
**Date of Testimony:** September 30, 2013

**Name of Case:** Barker v. Barker  
**Name of Court:** Lynchburg Circuit Court  
**Date of Testimony:** September 26, 2013

**Name of Case:** Kirk v. Kirk  
**Name of Court:** Fairfax Circuit Court  
**Date of Testimony:** September 10, 2013

**Name of Case:** Brenzie v. Brenzie  
**Name of Court:** Chesterfield County Juvenile & Domestic Court  
**Date of Testimony:** August 23, 2013

**Name of Case:** Crystal Aswell Fitzwater v. C.A. Perry & Son Transit, Inc., et al  
**Name of Court:** Suffolk Circuit Court  
**Date of Testimony:** August 20, 2013

**Name of Case:** Penelope Minter v. District of Columbia  
**Name of Court:** United States District Court for the District of Columbia  
**Date of Testimony:** August 7, 2013

**Name of Case:** Bonamassa v. Bonamassa  
**Name of Court:** Loudoun Circuit Court  
**Date of Testimony:** August 6, 2013

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***Exhibit B***

Name of Case: Colman v. Colman  
Name of Court: York Circuit Court  
Date of Testimony: July 29, 2013

Name of Case: Carrie Gitter v. Richard Gitter  
Name of Court: Stafford Circuit Court  
Date of Testimony: June 12, 2013

Name of Case: Ward v. Ward  
Name of Court: Gloucester Circuit Court  
Date of Testimony: May 16, 2013

Name of Case: Ann Gallier Parsons v. James Leonard Parsons  
Name of Court: Goochland County Circuit Court  
Date of Testimony: May 7, 2013

Name of Case: Paul Wood v. Barbara Wood  
Name of Court: Louisa County Circuit Court  
Date of Testimony: April 4, 2013

Name of Case: Preston Scott Cross v. Carole Cassidy Cross  
Name of Court: Lynchburg Circuit Court  
Date of Testimony: March 28, 2013

Name of Case: Toni I. Mastro v. Christopher A. Mastro  
Name of Court: Chesterfield County Circuit Court  
Date of Testimony: February 25, 2013

Name of Case: Pamala Ann Cerisano v. Eugene A. Cerisano  
Name of Court: Chesterfield County Circuit Court  
Date of Testimony: February 20, 2013

Name of Case: Mooz v. Mooz  
Name of Court: Hanover County Circuit Court  
Date of Testimony: January 24, 2013

Name of Case: Kenneth Wayne Meyer v. Karen Sue Meyer  
Name of Court: Williamsburg Circuit Court  
Date of Testimony: January 16, 2013

Name of Case: Karen Lee Derrico v. Jack Alan Derrico  
Name of Court: Fairfax County Circuit Court  
Date of Testimony: December 27, 2012

Name of Case: James Weatherford, Jr. v. Electric Power, Inc. & Richard Browning  
& Benjamin Davis  
Name of Court: Henrico County Circuit Court  
Date of Testimony: December 18, 2012

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***Exhibit B***

**Name of Case:** Christina Fontanilla v. Shannon Fontanilla  
**Name of Court:** Fluvanna County Circuit Court.  
**Date of Testimony:** December 14, 2012

**Name of Case:** Amy Fay Alliston v. Clarence Edward Hall, II  
**Name of Court:** Prince Edward County Circuit Court  
**Date of Testimony:** December 13, 2012

**Name of Case:** Hillsman v. Hillsman  
**Name of Court:** Circuit Court of Chesterfield County  
**Date of Testimony:** December 11, 2012

**Name of Case:** Oestreich v. Oestreich  
**Name of Court:** Circuit Court of Chesterfield County  
**Date of Testimony:** December 5, 2012

**Name of Case:** Bridgette M. Presson v. Christopher N. Presson  
**Name of Court:** York County-Poquoson Circuit Court  
**Date of Testimony:** November 26, 2012

**Name of Case:** Thomas E. Karow v. Belinda G. Karow  
**Name of Court:** Mathews County Circuit Court  
**Date of Testimony:** November 13, 2012

**Name of Case:** Marjolijn L. Francissen v. Jerome King  
**Name of Court:** Loudoun County Circuit Court  
**Date of Testimony:** November 7, 2012

**Name of Case:** Ryan D. Horne v. Lisa M. Martin, Virginia Beach Life Saving Service, Inc. and  
City of Virginia Beach, Virginia  
**Date of Deposition:** November 5, 2012

**Name of Case:** Courtney E. Powell v. Timothy B. Powell  
**Name of Court:** Circuit Court of the City of Williamsburg and the County of James City  
**Date of Testimony:** November 1, 2012

**Name of Case:** Mary Miskell v. Dale Miskell  
**Name of Court:** Circuit Court of Loudoun County  
**Date of Testimony:** October 9, 2012

**Name of Case:** Joseph Scott Jones, Jr. An infant who sues by Angela Marrow v. William S.  
Ervin, III, M.D.  
**Date of Deposition:** October 3, 2012

**Name of Case:** Norman Seth Rosenbaum v. Maureen Mandwelle Rosenbaum  
**Name of Court:** Henrico County Circuit Court  
**Date of Testimony:** September 18, 2012



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***Exhibit B***

**Name of Case:** Zachary T. Owen v, Randy T. Powell  
**Name of Court:** Halifax County Circuit Court  
**Date of Testimony:** September 6, 2012

**Name of Case:** Kristine Turner v. Scott Turner  
**Name of Court:** Circuit Court of Prince William County  
**Date of Testimony:** August 29, 2012

**Name of Case:** Julie B. Johnson v. James R. Johnson  
**Name of Court:** Juvenile and Domestic Court of Henrico County  
**Date of Testimony:** August 28, 2012

**Name of Case:** Wendy Kelly v. Thomas Kelly, III  
**Name of Court:** Circuit Court of Hanover County  
**Date of Testimony:** June 27, 2012

**Name of Case:** Shepherd McKnight Smith v. Aimee Labuy Smith  
**Name of Court:** Circuit Court of Fairfax County  
**Date of Testimony:** June 27, 2012

**Name of Case:** Janet Brinegar v. Richard Earle Brinegar  
**Name of Court:** Circuit Court of the County of Henrico  
**Date of Testimony:** June 25, 2012

**Name of Case:** Shepherd McKnight Smith v. Aimee Labuy Smith  
**Name of Court:** Circuit Court of Fairfax County  
**Date of Testimony:** June 14, 2012

**Name of Case:** Czyzewski v. Czyzewski  
**Name of Court:** Circuit Court of Chesterfield County  
**Date of Testimony:** June 4, 2012

**Name of Case:** Lisa Kestner Quigley v. Michael John Quigley  
**Name of Court:** Circuit Court of Chesterfield County  
**Date of Testimony:** May 18, 2012

**Name of Case:** Tammy L. Morris v. Patrick J. Morris  
**Name of Court:** Circuit Court of Augusta County  
**Date of Testimony:** April 4, 2012

**Name of Case:** Mary Anne Moniz Gernon v. Lawrence W. Gernon  
**Name of Court:** Circuit Court of the City of Richmond  
**Date of Testimony:** March 30, 2012

**Name of Case:** Patricia J. Wishart v. James W. Wishart  
**Name of Court:** Circuit Court of Fairfax County  
**Date of Testimony:** March 28, 2012

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***Exhibit B***

**Name of Case:** Tommy Lee Marlowe v. Brandon Alexander Smith & Gary W. Smith  
Contractor, Inc.

**Name of Court:** Henry County Circuit Court

**Date of Testimony:** March 27, 2012

**Name of Case:** Virginia P. Moore v. James C. McGee

**Name of Court:** Culpeper County Circuit Court

**Date of Testimony:** February 16, 2012

**Name of Case:** Hicks v. Hicks

**Name of Court:** Bedford County Circuit Court

**Date of Testimony:** January 23, 2012

**Name of Case:** Kevin M. Dix v. Christine M. Verhagen

**Name of Court:** Culpeper County Circuit Court

**Date of Testimony:** January 20, 2012

**Name of Case:** Stephanie W. Marcus v. Richard M. Marcus

**Name of Court:** Henrico County Circuit Court

**Date of Testimony:** January 17, 2012

**Name of Case:** Burns v. Burns

**Name of Court:** Prince William Circuit Court

**Date of Testimony:** January 11, 2012

**Name of Case:** Natalie Taylor v. Joshua Taylor

**Name of Court:** Stafford County Juvenile and Domestic Relations Court

**Date of Testimony:** January 5, 2012

**Name of Case:** Stephanie Henke v. Michael Henke

**Name of Court:** County of King George Circuit Court

**Date of Testimony:** September 30, 2011

**Name of Case:** Selina Heslep v. Donald Heslep

**Name of Court:** County of Chesterfield Circuit Court

**Date of Testimony:** September 7, 2011

**Name of Case:** Ellen Walter Spence v. Ronald Eugene Spence

**Name of Court:** County of Gloucester Circuit Court

**Date of Testimony:** September 1, 2011

**Name of Case:** Marcus v. Marcus

**Name of Court:** County of Henrico Circuit Court

**Date of Testimony:** August 22, 2011

**Name of Case:** Selina Heslep v. Donald Heslep

**Name of Court:** County of Chesterfield Circuit Court

**Date of Testimony:** August 12, 2011

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***Exhibit B***

**Name of Case:** Ramey v. Ramey  
**Name of Court:** City of Richmond Circuit Court  
**Date of Testimony:** June 27, 2011

**Name of Case:** Saunders v. Saunders  
**Name of Court:** Chesterfield County Circuit Court  
**Date of Testimony:** June 10, 2011

**Name of Case:** Almaz Kebede Shibeshi v. Henry Amis, d/b/a/ Henry Amis Trucking and  
Michael Todd Peterson  
**Name of Court:** Circuit Court of Fairfax County  
**Date of Testimony:** May 17, 2011

**Name of Case:** Michael J. Morak v. Sharon H. Morak  
**Name of Court:** Chesterfield County Circuit Court  
**Date of Testimony:** April 18, 2011

**Name of Case:** Davey Ingram v. Linda Ingram  
**Name of Court:** Loudoun County Circuit Court  
**Date of Testimony:** March 1, 2011

**Name of Case:** Christine M. LaFleur v. Wayne F. LaFleur  
**Name of Court:** Circuit Court of the County of Greene  
**Date of Testimony:** February 22, 2011

**Name of Case:** Lisa Ackerman Seeman v. Benjamin Seeman  
**Name of Court:** Circuit Court of Henrico County  
**Date of Testimony:** February 22, 2011

**Name of Case:** Edith Clausing v Timothy Clausing  
**Name of Court:** Circuit Court of Hanover County  
**Date of Testimony:** February 18, 2011

**Name of Case:** James Russell Marcoe v Darlene Frances Marcoe  
**Name of Court:** Circuit Court of Fairfax County  
**Date of Testimony:** January 5, 2011

**Name of Case:** Jeffrey Beck v Kari Beck  
**Name of Court:** Circuit Court of Goochland County  
**Date of testimony:** November 2, 2010

**Cases Testified**

Name of Case: Steven Popovsky  
Name of Court: Pennsylvania Workers Compensation  
Date of Testimony: 3/31/11

Name of Case: William Dougherty v ABM Industries  
Name of Court: Pennsylvania Workers Compensation  
Date of Testimony: 1/28/14



## **Brad Shamis, Ph.D.**

4802-6 Neshaminy Blvd.  
Bensalem, PA 19020  
(215) 752-2287

Fax: (215) 752-7094 Email: [shamisbrad@comcast.net](mailto:shamisbrad@comcast.net)  
Website: [bradshamis.com](http://bradshamis.com)

301 Oxford Valley Rd.  
Suite 1001A  
Yardley, Pa 19067

A psychologist with more than twenty-two years of experience in psychotherapy, psychological neurological assessment, as well as in managing, directing, and promoting mental health-related associations. Major experiences, strength, and skills include:

Panic Attacks	Trauma	Post Traumatic Stress	ADHD/ADD
Anxiety	Stress	Sexual Abuse	Hypnosis
Depression	OCD	Marital/Family Issues	Thought Field Therapy
EMDR	Grief	Addictions/12 Step	Public Speaking

### **EXPERIENCE**

#### **Dr. Brad Shamis and Associates, LLC, Bensalem, PA and Yardley, PA; 1983 to present**

Director and Psychologist for children, adolescents, adults and families. Provide individual, group, marital and family therapy.

#### **Trenton Psychiatric Hospital, Trenton, NJ; June 1988 to March 1999**

Senior Clinical Psychologist for adult psychiatric hospital. Responsible for individual, group and family therapy; psychological and neurological assessment; treatment planning; and educational development of staff.

#### **Accomplishments:**

- Created a Family Issues Program that addressed the needs of victims of sexual, physical, and emotional abuse.
- Introduced a substance abuse recovery program that provided 12-step groups, individual and group psychotherapy.
- Co-designed a treatment milieu for short-term treatment, which decreased average length of stay from 120 days to 90 days.
- Provided consultation and planning expertise for the hospital's Mentally Ill/Chemically Addicted (MICA) program.
- Selected a coordinator of psychological services for the hospital's Clozaril unit.

#### **Wordsworth Academy, Fort Washington, PA; August 1985 to June 1988**

Program Director for a children and adolescent partial hospital. Responsible for all aspects of the agency, including program design, personnel policies, budget, staff training, clinical supervision, public relations, referral, and promotions. Also provided psychotherapy.

**Accomplishments:**

- Created behavior management model, which decreased average length of stay from 120 days to 60 days and dropped recidivism rate 50% in the first year.
- Established personnel and administrative policies, which led to informed employees and minimized turnover to less than 20% in the first year.
- Maintained control of capital expenditures, with a budget in excess of one million dollars.
- Developed an evening program, which increased revenues by 40% in the first three months.
- Established policies and procedures, which resulted in attainment of 100% compliance of regulations, set by all government funding agencies, all four years.

**Aldersgate Youth Service Bureau, Willow Grove, PA; August 1984 to August 1985**

Family Psychotherapist for children, youth, and adults. Responsible for providing individual, group, family and marital psychotherapy; crisis intervention; case management; and community education.

**Accomplishments:**

- Established a referral network among former clients and agencies, which increased population by 35% in the first six months.
- Formulated a treatment milieu for co-dependents, which increased from one group to three groups during tenure.
- Implemented a systems theory approach, which increased referrals to agency by 50% during tenure.
- Introduced and facilitated "12-step" groups for substance abusers and victims of sexual abuse. Number of groups increased from one to four during tenure.

**Lower Kensington Environmental Center, Philadelphia, PA; 1983 to 1984**

Clinical Coordinator for a drug and alcohol outpatient program. Responsible for rendering individual, group, family, and marital psychotherapy and crisis intervention. Provided consultation and supervision of agency treated assessment and intake.

**Accomplishments:**

- Co-designed, with Director, a 90-day program, which increased in population from seven to forty-four clients during tenure.
- Introduced Alcoholics Anonymous, Narcotics Anonymous, and Overeaters Anonymous groups, which grew from one of each to two of each during tenure.

**Philadelphia Child Guidance Clinic, Philadelphia, PA 1982 to 1983**

Child Care Counselor of a children and youth hospital. Responsible for rendering individual and group psychotherapy on food abuse ward.

## **PART TIME EXPERIENCE**

### **Introspect, Colmar, PA; 1990 to 1991**

Consulting Psychologist for group private practice.

### **Princeton Medical Center, Princeton, NJ; 1989 to 1991**

Consulting Psychologist for weight management program

### **Cooper Healthcare Services, Inc. Camden, NJ; 1987 to 1988**

Behavior Management Specialist for Optifast Program

### **Bustleton Psychological Associates, Philadelphia, PA; 1987 to 1989**

Psychotherapist for child and adult outpatient program

### **Institute for Learning, Philadelphia, PA; 1983 to 1987**

Psychotherapist for child and adult outpatient program

## **EDUCATION**

Syracuse University, Syracuse, NY; B.S., Communications – 1977

Temple University, Philadelphia, PA; M.Ed., Educational Psychology – 1982

Temple University, Philadelphia, PA; Ph.D., Educational Psychology – 1989

## **INTERNSHIP**

Satinsky Institute, Philadelphia, PA

## **LICENSURE**

Pennsylvania and New Jersey

## **HONORS**

Trenton Psychiatric Hospital – Clinician of the year for 1990

Magnum Cum Laude at Syracuse University

Summa Cum Laude at Temple University

## **OTHERS**

Running, weight lifting, reading, movies, volleyball, baseball

## **LECTURES** (Partial List)

### **Kehillas B'nai Shalom, Seminar, 1998**

"The Spirituality of Everyday Living"

### **Temple Shalom, "Mentor-In-Training" Program, 1993**

"Fatherhood and Loss: Healing the Wounds of the Lost Father"

### **USX Seminar, "Safety, Health, and Productivity in the Workplace", 1993**

"Making Stress Work in the Workplace"

### **Trenton Psychiatric Hospital Seminars, 1991**

"Eating Your Heart Out – The Trauma of Food Addiction"

### **Abington Women's Group Lecture Forum, 1990**

"Why Relationships Fail and How to Make them Succeed"

### **Wordsworth Human Services Family Forum**

"Psychodynamics of the Sexual Abuse Victim" – 1988

"Soul Murder: Loss of Self from Family Dysfunction" – 1988

"Crack in the Soul: What Propels Cocaine Addiction" – 1987

## **CERTIFICATIONS**

Thought Field Therapy

Eye Movement Desensitization Reprocessing

Hypnosis

Neurolinguistic Programming

Psychosynthesis

Society of Souls (Kabbalistic Healing)





## CURRICULUM VITAE

# ROGER CAINE, D.C.

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3237 Bristol Road, Suite 102 • Bensalem, PA 19020  
Telephone: (215) 891 - 8300 • Fax: (215) 891 - 8318

## LICENSURE

---

Pennsylvania License No: DC-002664-L  
Date: March 27, 1984

## EDUCATION

---

Pennsylvania College of Straight Chiropractic, Horsham, PA  
*Doctor of Chiropractic Degree, 1984*

A.D.I.O. Institute of Straight Chiropractic, Levittown, PA  
*Doctor of Chiropractic Diploma, 1983*

Stonehill College, North Easton, MA  
*Bachelor of Arts Degree, 1977*

## EXPERIENCE

---

Private Practice  
Bensalem, PA  
1984 to Present

Associate Chiropractor  
Gringeri Family Medicine  
Bensalem, PA  
2009 to 2013

Independent Examiner  
Peer Review - Retrospective and Prospective Review  
Forensic Testimony  
1990 to Present

Independence Blue Cross  
Philadelphia, PA  
Chiropractic Consultant  
March 1994 to March 1996 and  
February 2000 to September 2000

AmeriHealth Administrators  
Inter-County Health Plan  
Horsham, PA  
Chiropractic Medical Director & Consultant  
March 1996 to February 2000

Self Help Movement, Inc.  
Philadelphia, PA  
Chiropractic Provider  
1985 to 1987

Roger Caine, D.C.  
Page 2

## CONTINUING EDUCATION

### CERTIFICATIONS

- American Chiropractic Rehabilitation Board: Level I  
Certification Date: October 1997
- Certified Chiropractic Rehabilitation Doctor  
Chiropractic Rehabilitation Association & Cleveland College of Chiropractic - 100 Hours  
Certification Date: August 1997
- Peer/Utilization Review Certification Program  
New York Chiropractic College - 36 Hours  
Certification Date: September 1996
- Chiropractic IME  
Parker Chiropractic College - 60 Hours  
Certification Date: December 1992
- Physiological Therapeutics  
Parker Chiropractic College - 120 Hours  
PA Certification No.: AJ-002664-L  
Certification Date: February 1988

### COMPLETED COURSES (CURRENT LICENSE RENEWAL PERIOD TO PRESENT)

- Management of First Time Shoulder Dislocation -- 1 Hour  
Cleveland Chiropractic College  
Completed 06/22/14
- Anterior Instability of the Shoulder -- 1 Hour  
Cleveland Chiropractic College  
Completed 06/22/14
- Posterior Instability of the Shoulder -- 1 Hour  
Cleveland Chiropractic College  
Completed 06/22/14
- Clinical Examination of the Shoulder Complex -- 1 Hour  
Cleveland Chiropractic College  
Completed 06/14/14
- ACRB Rehabilitation Re-Certification (2014) -- 4 Hours  
Southern California University of Health Sciences  
Completed 06/07/14
- Whiplash After The Crash -- 12 Hours  
Sherman College of Chiropractic  
Completed 05/10/14
- ACRB Rehabilitation Re-Certification (2013) -- 4 Hours  
Southern California University of Health Sciences  
Completed 12/25/13

Roger Caine, D.C.  
Page 3

- COMPLETE LISTING (1986 TO PRESENT) AVAILABLE BY REQUEST

## MEMBERSHIPS

---

### PPO & NETWORK MEMBERSHIPS

COMPLETE NETWORK LISTING AVAILABLE UPON REQUEST

### PROFESSIONAL MEMBERSHIPS

Pennsylvania Chiropractic Association  
Member Since 2007

ACA Council on Chiropractic Physiological Therapeutics and Rehabilitation  
Member Since 1994

American Chiropractic Association  
Member Since 1993

(REVISED 06/23/14)

# ROGER CAINE, D.C.

AMERICAN CHIROPRACTIC REHABILITATION BOARD, LEVEL I

3237 BRISTOL ROAD, SUITE 102 ♦ BENSALEM, PA 19020 ♦ (215) 891-8300 ♦ FAX (215) 891-8318

February 26, 2015


Marshall Kressman, Esq.  
1950 Street Road, Suite 103  
Bnsalem, PA 19020

Re: Roy Eisner, United States Bankruptcy Court Subpoena

Dear Mr. Kressman:

This letter will certify that aside from the above matter, there are no pending cases in which I have been asked to testify and to my knowledge I have not testified or provided a deposition in any other matter for the last 5 years.

Should you require any additional information regarding this matter, please contact my office at your convenience.

  
Roger Caine, D.C.



**NORMAN B. STEMLER, D.O., ABPS, FAASOS**

Board Certified Orthopedic Surgeon

Eastern Pennsylvania Orthopedic Associates

255 South 17<sup>th</sup> Street, 30<sup>th</sup> Floor, Philadelphia, PA 19103

(215) 735-5911 Fax (215) 735-5914

Bensalem Orthopedics  
2131 Galloway Rd.  
Bensalem, PA 19020  
215-604-1355

Olney Orthopedics  
199 West Nedro Avenue  
Philadelphia, PA 19120  
215-548-0202

Berks County Orthopedics  
438 Walnut St., 2nd Fl.  
Reading, PA 19601  
610-375-4002

**CURRICULUM VITAE**

**NAME:** Norman B. Stempler

**EDUCATION:** Massachusetts College of Pharmacy, Boston Massachusetts, 1967-1972; Des Moines College of Osteopathic Medicine, Des Moines Iowa, 1972-1975

**INTERNSHIP:** Delaware Valley Medical Center, Bristol/Langhorne, PA, 1975-1976

**RESIDENCY:** Orthopedic Surgery, Hospital of the Philadelphia College of Osteopathic Medicine, Philadelphia, PA., 1976-1980

**BOARD**

**CERTIFICATION:** American Academy of Osteopathic Orthopedic Surgeons-1985  
Fellow of the A.A.O.O.S. - 1990  
American Disability Evaluation Research Institute, 1998

**HOSPITAL**

**APPOINTMENTS:** Assistant Professor, Department of Surgery, Division of Orthopedics, Philadelphia College of Osteopathic Medicine  
Chairman, Division of Orthopedics, Department of Surgery, Mercy Suburban Hospital, Norristown, PA 1982-1986, 1990-1999

**TEACHING**

**APPOINTMENTS:** Assistant Professor, Department of Surgery, Division of Orthopedics, Philadelphia College Of Osteopathic Medicine, 1980 -1985

**CORRECTIONAL  
MEDICINE:**

Orthopedic Clinic Director;  
Montgomery County Prison, Montgomery County, PA  
Orthopedic Consultant and Provider; Orthopedic Clinic Director,  
PA Department of Corrections, Eastern Division Capitals through  
Correctional Physician Services, 1989-1995, Prison Health  
Services Assoc. 1996-2002, Wexford Correctional Corporation  
2003.

**MEDICAL**

**SOCIETIES:**

American Association of Osteopathic Medicine  
American Academy of Osteopathic Orthopedic Surgeons  
Philadelphia County Medical Society  
Pennsylvania Osteopathic Medical Association  
American Disability Evaluation Research Institute

**LICENSURE:**

Pennsylvania, New York, Delaware

**OFFICE**

**LOCATIONS:**

Philadelphia, Bensalem and Reading, Pennsylvania



Dr. Stempler's Depositions for EPOA, Bensalem Ortho, and Berks County Ortho.

January 2010

1 with Howard Rosen  
2 with Eric Nash  
1 with Larry Pitt  
1 with David Stern

February 2010

1 with Chris Lombardo  
1 with David Stern  
1 with Ron Kovler  
1 with Jim Mogul  
3 with Larry Pitt  
1 with Jeffrey Lessin

March 2010

1 with Gary Martin  
1 with Joe Cronin  
1 with Matthew Wilson  
1 with Tom Karpnick  
1 with Michael Lerner  
1 with Larry Pitt  
1 with Eric Nash  
1 with Mike Lerner

April 2010

1 with Harry Sher  
1 with Brian Kredo  
1 with Robert Simmons  
1 with Brandon Swartz  
1 with Howard Rovner  
1 with Mary Ann Henry

May 2010

1 with Keith Levinson  
1 with Hal Banks  
1 with Stuart Richman  
1 with Jonathan Koutcher

June 2010

1 with Gary Martin  
1 with Stuart Richman  
1 with Michael Fanning  
1 with Feeda Musitief  
1 with Larry Pitt

1 with Matthew Wilson

July 2010

1 with Martin Fallon  
1 with Lee Rosenfeld  
1 with Ron Kovler  
1 with Larry Pitt

August 2010

1 with Marshall Kresman  
1 with Howard Rovner  
1 with Robert Baccari  
1 with Jeffrey Lessin

September 2010

1 with Gary Martin  
1 with Brian Kredo  
1 with Larry Pitt  
1 with Al Carlson

October 2010

1 Eli Gabay  
1 with Al Carlson  
1 with Drew Quinones  
3 with Larry Pitt

November 2010

1 with John Padova  
1 with David Stern  
2 with Michael DiGenova  
1 with David Stern  
1 with Al Carlson  
1 with Drew Quinones  
1 with Michael Dryden  
1 with Roger McMenamin

December 2010

1 with Drew Quinones  
1 with Joe Marrone  
1 with Rand Spear  
1 with Sam Pond  
1 with Eric Nash

January 2011

1 with Jeffrey Lessin  
1 with Mark Schmidt

1 with Gary Martin  
1 with Ken Rodgers  
1 with Mike Lerner  
1 with Joe Hutteman  
1 with Frank Cipraro  
1 with Marshal Kresman

February 2011

1 with Joe Hutteman  
1 with Michael Restrepo  
1 with Rania Major-Trunifo  
1 with David Rovner  
4 with Larry Pitt  
1 with Howard Rovner  
1 with James Mogul  
1 with Mike Lerner

March 2011

1 with Christian Petrucci  
1 with Gary Martin  
1 with James Vernile  
1 with Rand Spear  
1 with Eric Nash

April 2011

1 with Anthony Lopresti  
1 with Brian Kredo  
1 with Dan Linn  
1 with Alan Lourie  
1 with Leonard Hill  
1 with Jeffrey Schmidt

May 2011

1 with Brian Kredo  
1 with Andrew Ben  
1 with Mike Lerner

June 2011

1 with Christian Petrucci  
1 with John Picker  
3 with Larry Pitt  
1 with Marc Sacchetta  
1 with Jennifer Sagot  
1 with Eric Nash

July 2011

1 with Michael Pomerantz  
1 with John Pallante  
1 with Greg Boles  
1 with Al Carlson  
1 with Larry Pitt  
1 with Daniel Ashton

August 2011

1 with Mike Lerner  
1 with Stuart Richman  
1 with Ken Rodgers  
1 with Adam Grutemacher  
1 with Michael Leabman  
1 with Larry Pitt

September 2011

2 with Francis Ciprero  
1 with Greg Boles  
1 with Joe Hutteman  
1 with Stuart Richman  
1 with Larry Pitt

October 2011

1 with Keith Kofsky  
2 with Larry Pitt  
1 with Hal Banks  
1 with Steve Rovner  
1 with Cheryl Baffa  
1 with Aaron Friedman

November 2011

2 with Brian Kredo  
1 with John Picker  
1 with Larry Pitt

December 2011

1 with David Stern  
1 with Michael Mednick  
2 with Larry Pitt  
1 with Mike Lerner  
1 with Leonard Hill  
1 with Brad Cooper

January 2012

1 with Stuart Richman  
1 with Lenard Cohen

1 with Richard Veon  
1 Joseph Huttemann  
1 with Michael Lerner  
1 with Gary Martin  
1 with Larry Pitt  
1 with Kenneth Rodgers

February 2012

1 with Jerry Lehocky  
2 with Lenard Cohen  
1 with Andrew Touchstone  
1 with Craig Falcone

March 2012

1 with David Stern  
1 with Rania Major Trunfio  
1 with Gary Brownstein  
1 with Robert Gelinas  
1 with Patrick Donan  
1 with Mike Lerner

April 2012

1 with Scott Diamond  
1 with Lenard Cohen  
1 with Joe Huttemann  
1 with A.J. Sciolla  
1 with Gary Martin  
1 with Mike Fanning  
1 with Paula Robinson  
1 with Howard Rosen

May 2012

1 with Leonard Hill  
1 with Joseph Conlan  
1 with Elkin Tolliver

June 2012

1 with John Picker  
1 with Marshall Kresman  
1 with Larry Pitt  
1 with Brian Kredo  
1 with John Pallante  
1 with Robert Land  
1 with Tom Karpink

July 2012

1 with Adam Crosier  
2 with Len Cohen  
1 with Jeffrey Nerenberg  
1 with John Pallante  
1 with Michael Lerner  
1 with Stuart Richman  
1 with Al Carlson

August 2012

1 with Amit Shaw  
1 with Steve Lavner  
2 with Patrick Donan  
1 with Peter Classetti  
1 with John Pallante  
1 with Len Cohen

September 2012

1 with Robert Dennison  
2 with Len Cohen  
1 with Marc Simon  
1 with Susan Herczeg  
1 with Jason Fine  
2 with Larry Pitt

October 2012

1 with Eric Roghberg  
1 with Tim Kennedy  
1 with William Campanale  
1 with Stuart Richman  
1 with Robert Gelinas

November 2012

1 with John Pallante  
1 with Joe Huttemann  
1 with Michael Lerner  
1 with Andrew Schneider  
1 with Jeffrey Kornblau  
1 with Brian Rodden

December 2012

1 with Patrick Donan  
1 with Hevin Hook  
1 with John Pallante  
2 with Larry Pitt

January 2013

1 with Ken Rodgers  
1 with Frank Ciperio  
1 with Robert Gelinas  
1 with Len Cohen  
2 with Rand Spear's  
1 with Larry Pitt

February 2013

2 with Brian Kredo  
1 with Tom Karpink  
1 with Michael Farrell  
1 with Rand Spear

March 2013

1 with Allison Wheeler  
1 with Susan Hertzog  
1 with Robert Gelinas  
1 with Rand Spear's  
1 with Lee Rosenfeld

April 2013

1 with Christian Petrucci  
1 with Michael Leabman  
1 with Kristen Buddle  
2 with Larry Pitt

May 2013

1 with Mike Borish  
2 with Len Cohen  
1 with William Stoper

June 2013

1 with Mike DiGenova  
1 with Mike Lerner  
1 with Len Cohen  
1 with Rand Spear's  
1 with Brian Kredo

July 2013

1 with Holly Doboskry  
1 with Mark Schmit  
1 with Jerry Lehocky  
1 with John Pallante  
1 with Rand Spear's  
1 with Joe Huttemann

August 2013

1 with Jay Edelstein  
1 with Len Cohen  
1 with John Pallante  
1 with Rand Spear's

September 2013

1 with Albert Deutsch  
1 with Rand Spear's  
1 with Michael Baurle

October 2013

1 with Todd Flezer  
1 with Rand Spear's  
1 with Dale Larrimore  
1 with Warren Seigle  
1 with Brian Steiner  
1 with Keith Kofsky

November 2013

1 with Michael Bauerle  
1 with Rand Spear's office  
1 with Larry Pitt  
1 with Mike Lalli  
1 with Brian Kredo

December 2013

1 with Rand Spear's office  
1 with Larry Pitt

January 2014

2 with Rand Spear's office  
1 with Robert Sitoski's office  
1 with Peter Classett  
1 with Hal Banks,  
1 with Jeff Lessin  
2 with Larry Pitt

February 2014



1 with Kenneth Rodgers  
4 with Rand Spear's office

March 2014

1 with Rand Spear  
1 with Larry Pitt

April 2014

1 with Andy Schneider  
1 with Mike Lalli

May 2014

1 with Ken Rodges  
1 with Andrew Touchstone  
1 with John Pallante,  
1 with Lee Rosenfeld  
1 with Larry Pitt  
1 with Lou Silveman's office

June 2014

1 with John Pallante  
1 with Larry Pitt  
1 with Salvatore Larousa  
1 with Lou Silveman's office

July 2014

1 with Greg Boles  
1 with Brian Pincus  
2 with Rand Spear's office  
1 with Mike DiSimone  
1 with Len Cohen  
1 with Joe Hutteman

August 2014

1 with John Pallante  
1 with Jeff Curry  
1 with Joseph Bonfig

September 2014

1 with Joseph Conlon

October 2014

1 with Brian Kredo

November 2014

1 with John Pallante

2 with Stuart Richman

December 2014

1 with Jackie Morgan

January 2015

1 with Rand Spear

1 with Chris Fox

1 with Richard Wolfe

1 with Mike Lalli

# **Exhibit E**

**KELLEY DRYE & WARREN LLP**

A LIMITED LIABILITY PARTNERSHIP

**101 PARK AVENUE  
NEW YORK, NY 10178**

(212) 806-7800

FACSIMILE

(212) 808-7897

www.kelleydrye.com

MARTIN A. KROLEWSKI

DIRECT LINE: (212) 808-5137

EMAIL: mkrolewski@kelleydrye.com

WASHINGTON, DC  
LOS ANGELES, CALIFORNIA  
CHICAGO, IL  
STAMFORD, CT  
PARSIPPANY, NJ

BRUSSELS, BELGIUM

AFFILIATE OFFICE  
MUMBAI, INDIA

March 11, 2015

**VIA FIRST CLASS U.S. MAIL AND E-MAIL**

Marshall E. Kresman, Esq.  
Law Offices of Marshall E. Kresman  
1950 Street Road, Suite 103  
The Constitution Building  
Bensalem, PA 19020

Re: *Roy and Joanne Eisner v. Circuit City Stores, Inc.,*  
*Case No. 08-35653 Claim Nos. 3025 and 3852*

Dear Marshall:

I further write concerning certain deficiencies in Roy Eisner's disclosure of alleged testifying expert witnesses in this matter. As you know, testifying expert witnesses and their respective expert reports were to be disclosed and served on or before February 13, 2015 pursuant to the Bankruptcy Court's Discovery Scheduling Order ("Discovery Order") entered on September 25, 2014 (Docket No. 13437). Prior to the Bankruptcy Court's deadline, in a letter dated December 29, 2014, you disclosed on behalf of Mr. Eisner three testifying expert witnesses (H. Gray Broughton, Dr. Brad Shamis and Dr. Norman Stempler) and attached their purported expert reports. As I wrote you on March 5, 2015, the expert reports of Dr. Brad Shamis and Dr. Norman Stempler attached to your letter failed to satisfy the requirements set forth in Rule 26(a)(2)(B) of the Federal Rules of Civil Procedure for expert reports and as such also violate the Discovery Order. Your March 6, 2015 belated production of Dr. Shamis' and Dr. Stempler's Curriculum Vitae, testimony list and fee schedule does not cure the violation. Furthermore, their purported expert reports continue to fail to satisfy the Rule 26 requirements and as such violate the Discovery Order in that they do not contain for example: (i) a complete statement of all opinions the witness will express and the basis and reasons for them; and (ii) the facts or data considered by the witness in forming them. As such, the Circuit City Stores, Inc. Liquidating Trust (the "Trust") continues to object to these reports and reserves all of its rights and remedies

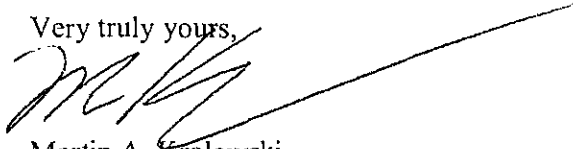
KELLEY DRYE & WARREN LLP

Marshall E. Kresman, Esq.  
March 11, 2105  
Page Two

in connection with Dr. Shamis and Dr. Stempler serving as testifying expert witnesses in this matter.

Furthermore, in your letter dated March 6, 2015, you disclose for the first time Dr. Kenneth Morris and Dr. Rodger Caine as additional testifying expert witnesses. As noted, the deadline for such disclosures was February 13, 2015. Thus, your disclosure of these individuals as testifying expert witnesses violates the Bankruptcy Court's Discovery Order. Moreover, you have failed to produce an expert report for either Dr. Morris or Dr. Caine as required by the Federal Rules of Civil Procedure and the Discovery Order. As such, the Trust objects to Dr. Morris and Dr. Caine serving as testifying expert witnesses in this matter and reserves all of its rights and remedies in connection with this issue.

Very truly yours,



Martin A. Krolewski

cc: Kevin J. Funk, Esq. (via E-mail)  
Nicholas J. Panarella, Esq.

# **Exhibit F**

*Law Offices*  
**Marshall E. Kresman**  
*The Constitution Building*  
**1950 Street Road**  
**Suite 103**  
**Bensalem, PA 19020**  
Phone (215) 639-9933  
Fax (215) 639-8346

MARSHALL E. KRESMAN\*  
ALAN I. LDURIE\*†  
LDUIS DOBI, JR.\*

\* MEMBER OF PA AND NJ BARS  
† MEMBER OF D.C. BAR

6745 TORRESDALE AVENUE  
PHILADELPHIA, PA 19135  
(215) 338-7555

ONE GREENTREE CENTER  
SUITE 201  
10000 LINCOLN DRIVE EAST  
MARLTON, NJ 08053  
(856) 598-9333

PLEASE REPLY TO BENSALEM

March 17, 2015

Via Email: [mkrolewski@kelleydrye.com](mailto:mkrolewski@kelleydrye.com) & Regular Mail

Kelley Drye & Warren LLP  
Martin A. Krolewski, Esquire  
101 Park Avenue  
New York, NY 10178

Re: **Eisner, et al. v. Circuit City Stores, Inc., et al.**  
Case No.: **08-35653**

Dear Mr. Krolewski:

You have misperceived the court scheduling order of 9/25/14 and Federal Rule 26 A(2)(B).

The Rule requirements you have discussed in your correspondence pertain only: "if the witness is one retained or specially employed to provide expert testimony in the case". All of the physicians and psychologist I have listed and whose reports you have received; Dr. Stempler, Dr. Shamis, Dr. Morris and Dr. Caine are treating physicians and not retained for the purposes of testifying.

In fact defendant Circuit City is in violation of the 9/25/14 Court Scheduling Order in failing to provide defense expert reports by 2/13/15.

Very truly yours,

Marshall E. Kresman

MEK/jjb

cc.: Kevin Funk (Via Email: [kfunk@durrettecrump.com](mailto:kfunk@durrettecrump.com) w/enclosures)

# **Exhibit G**



1  
2 UNITED STATES BANKRUPTCY COURT  
3 EASTERN DISTRICT OF VIRGINIA  
4 RICHMOND DIVISION

5 -----X  
6 In Re  
7 CIRCUIT CITY STORES, Chapter 11  
8 INC., Case No. 08-35653  
9 Debtors. Jointly Administered  
10  
11 -----X  
12  
13

14 DEPOSITION OF ROY EISNER

15 VOLUME I

16 New York, New York

17 January 13, 2015  
18

19 Reported by:

20 MARY F. BOWMAN, RPR, CRR

21 Job No. 88992  
22  
23  
24  
25

Page 166

1 R. Eisner  
2 Q. So the day after the incident, when  
3 your employer asked you of your injuries, you  
4 reported to them that you had sustained a  
5 bloody ear, bruised ribs and chest, and  
6 scrapes and cuts on your face, correct?  
7 A. Yes, I did.  
8 Q. You did not report a neck injury?  
9 A. No.  
10 Q. You did not report a back injury?  
11 A. No.  
12 Q. You did not report you lost  
13 consciousness?  
14 A. No, I didn't tell anybody that.  
15 If we are going to say that, we  
16 need to follow up with that I was in shock  
17 that entire week.  
18 Q. Let's wait for a question.  
19 A. Well, to me, it's part of that  
20 answer. I shouldn't even have been filling  
21 this out.  
22 (Exhibit 9, letter dated  
23 September 4, 2008 marked for  
24 identification, as of this date.)  
25 Q. Who is Norman Stempler, sir?

Page 167

1 R. Eisner  
2 A. He is, I think, an orthopedic  
3 doctor.  
4 Q. He is a doctor, right?  
5 A. Um-hm.  
6 Q. He has been retained to provide an  
7 opinion for you in this case, right?  
8 A. Yes.  
9 Q. And you have met with him?  
10 A. Yes.  
11 Q. The court reporter has handed you  
12 what has been marked as Exhibit 9, and you  
13 feel free to look at this. But I'm just  
14 going to ask you one quick question about it.  
15 A. OK.  
16 Q. How many times has Mr. Stempler --  
17 excuse me, how many times has Dr. Stempler  
18 examined you?  
19 A. I believe it was twice.  
20 Q. This letter is dated September 4,  
21 2008.  
22 A. Yes.  
23 Q. And is that the first time Dr.  
24 Stempler examined you?  
25 A. To the best of my recollection.

Page 168

1 R. Eisner  
2 Q. And when is the last time he  
3 examined you?  
4 A. I just saw him recently just to --  
5 as a follow-up, as an update. I haven't seen  
6 his report yet.  
7 Q. Between September of 2008 and this  
8 most recent visit, have you seen him between  
9 that time period?  
10 A. No.  
11 Q. Can you put a more exact time  
12 period on when you saw him most recently?  
13 A. It was last -- I believe it was  
14 last -- I believe it was in December or early  
15 January. It wasn't -- it was within a month  
16 or so.  
17 Q. OK. So in September of 2008, you  
18 saw him and under "History of chief  
19 complaints," Dr. Stempler indicates what you  
20 told him?  
21 A. Um-hm.  
22 Q. Correct?  
23 A. Yeah.  
24 Q. And what -- in the second  
25 paragraph, he -- Dr. Stempler writes, "He hit

Page 169

1 R. Eisner  
2 his head but denies loss of consciousness"?  
3 A. Yes.  
4 Q. Do you see that?  
5 A. Yes, I do.  
6 Q. So in September of 2008, you told  
7 Dr. Stempler that you had not lost  
8 consciousness, right?  
9 A. I know.  
10 Q. Is that right?  
11 A. I did tell him that, yeah.  
12 Q. That's true, right?  
13 A. That I didn't know lose  
14 consciousness? That's not true.  
15 Q. It is not?  
16 A. That is not true, when I --  
17 Q. Let me finish the question.  
18 So in September of 2008, you told  
19 one of your doctors -- you did not tell one  
20 of your doctors the truth, with respect to  
21 your loss of consciousness, yes or no?  
22 A. No, no. Because at that point in  
23 time I wasn't sure of that. I mean, I --  
24 I -- it is very hard to explain. But I --  
25 Q. Let me --

1 R. Eisner  
2 not going to send me to West Philadelphia,  
3 for example, but an area that I haven't been  
4 going to for a while. I haven't been able to  
5 do that yet.

6 Q. I was going to ask, have you been  
7 able to --

8 A. No, not yet. I am going to. I  
9 will be in those areas for three, four  
10 doctors' appointments. They seem to be  
11 sending me all over the place here. I will  
12 not be driving there. I will not drive in  
13 the city of Philadelphia. So I will take a  
14 taxi to all these appointments, Cherry Hill,  
15 to the shrink I'm seeing on Friday.  
16 Everybody.

17 Q. Have you had any hospitalizations  
18 due to your psychiatric complaints?

19 A. No, no.

20 Q. Prior to April 8, 2008, were you  
21 treated at all for any type of psychiatric  
22 conditions?

23 A. No.

24 Q. Were you taking any medications?

25 A. I was still taking Wellbutrin.

1 R. Eisner

2 Q. Prior to the assault?

3 A. Yes.

4 Q. Is that right?

5 A. Yes.

6 Q. How long prior to April of 2008  
7 were you taking Wellbutrin?

8 A. I have been taking that since, I'd  
9 say, around 2000 -- maybe like the year 2000  
10 or so.

11 Q. Who prescribed that?

12 A. My -- Dr. Morris.

13 Q. Why did he prescribe that to you?

14 A. Because they said I had like signs  
15 of depression which I really didn't think I  
16 did. But since it doesn't seem to be a  
17 very -- it seems to be a very benign drug, at  
18 least with me. I don't have any problem -- I  
19 don't think it actually does anything.  
20 Everybody disagrees with me on that, but I  
21 don't think it does. I don't think it really  
22 helps.

23 Q. Why did they say you had signs of  
24 depression?

25 A. Because it lasted a certain period

1 R. Eisner  
2 of time. It was still -- I called it the  
3 blues. I said I'm not -- I don't say oh, woe  
4 is me or I want to -- sometimes I just don't  
5 feel like, you know -- well, they said that's  
6 depression, you have had it for a while. It  
7 was very moderate depression. Some people  
8 take some really strong stuff and Wellbutrin  
9 is not really one of those.

10 Q. So you would describe this as a  
11 feeling of the blues?

12 A. That's what I would -- that's what  
13 I was taking it for, yes.

14 Q. Was there anything that gave you  
15 the onset of the feeling of these feelings?

16 A. No. Not -- I mean, if it was -- it  
17 is nothing that I can recall.

18 Q. Can you describe what you told  
19 Dr. Morris that made him prescribe Wellbutrin  
20 to you?

21 A. They -- I was just asked, you know,  
22 who I, you know, how I felt and I said, you  
23 know, I'm OK. I said I -- I know I should be  
24 happier than I am right now. Everything is  
25 going very well. And -- but I'm not -- I'm

1 R. Eisner

2 not all that happy about it.

3 I mean, I'm not -- I'm not  
4 complaining, but I just said I wasn't all  
5 that happy about it. And they said, well,  
6 that's a sign of depression, and I said,  
7 well, I don't want to take anything for it.  
8 I said I don't think I need it. And they  
9 said, well, we will wait a while, but if you  
10 still have that six months from now, we have  
11 to address it and I did. That's what they  
12 did.

13 Q. They gave you Wellbutrin starting  
14 in 2000?

15 A. Yeah. I might have the year wrong.  
16 It has been a while though.

17 Q. You took that continuously?

18 A. Yes.

19 Q. Up until the time of the assault?

20 A. Yes.

21 Q. And after the assault, you  
22 continued to take it?

23 A. Yes.

24 Q. Did the Wellbutrin help prior to  
25 the assault?

1  
2 UNITED STATES BANKRUPTCY COURT  
3 EASTERN DISTRICT OF VIRGINIA  
4 RICHMOND DIVISION  
5 -----X

6 In Re:

7 CIRCUIT CITY STORES, Chapter 11  
8 INC., Case No. 08-35653  
9 Debtors. Jointly Administered  
10

11 -----X  
12  
13

14 DEPOSITION OF ROY ALAN EISNER

15 VOLUME II

16 New York, New York

17 January 14, 2015  
18

19 Reported by:

20 MARY F. BOWMAN, RPR, CRR

21 Job No. 88994  
22  
23  
24  
25

Page 307

1 R. Eisner  
2 So if I had said it, I am just  
3 being redundant here. But if not, at least  
4 when you asked that question, I have answered  
5 it totally. That was why, I think that was  
6 right at the end of the day yesterday. So  
7 that is all I --  
8 MR. DOBI: Let's go off the record  
9 for a second.  
10 THE VIDEOGRAPHER: The time is  
11 10:02 a.m. we are off the record.  
12 (Recess)  
13 THE VIDEOGRAPHER: The time is  
14 10:03 a.m. We are on the record.  
15 Q. OK, Mr. Eisner. You mentioned, in  
16 your answer, your right eye.  
17 A. Yes.  
18 Q. Is there anything else that you  
19 wanted to amend or supplement from  
20 yesterday's deposition?  
21 A. I did have -- when I was falling, I  
22 did have a, part of the way, I kind of  
23 twisted and turned when I was falling and it  
24 hit my right knee. We did do later on an  
25 x-ray and an MRI on it.

Page 309

1 R. Eisner  
2 Q. He can't answer the questions.  
3 MR. DOBI: I can't testify for you,  
4 Roy.  
5 A. OK.  
6 Q. I understand. This is your  
7 deposition though?  
8 A. As far as I know, yes, I'm 99.9  
9 percent sure that I got everything there.  
10 100 percent, I'll go there, that will get  
11 you.  
12 Q. Very good. Now, with respect to  
13 the right eye, have you been examined by any  
14 physician with respect to that claim?  
15 A. Yes, I have. It was -- yes, I  
16 have.  
17 Q. And who examined you?  
18 A. There are several different ones,  
19 but the one that made the diagnosis was Total  
20 Eye Care and it was a Dr. Lavrich. Spelling,  
21 I'm not too sure of that. Total Eye Care,  
22 Woodbourne Road, W-O-O-D-B-O-U-R-N-E, and  
23 that is in, I think that area right there is  
24 considered Levittown, PA.  
25 Q. And anyone else besides

Page 308

1 R. Eisner  
2 What it is showing is mild  
3 degenerative -- maybe a beginning of  
4 arthritis. But I do have problems with it a  
5 little bit now, a little bit since after  
6 that, that I didn't before.  
7 But that's -- that is all with the  
8 knee and all with the eye at this point.  
9 They should have everything on my right eye  
10 with your discovery.  
11 Q. OK. Is there anything else besides  
12 your right eye and right knee?  
13 A. No, no, sir.  
14 Q. OK.  
15 MR. DOBI: You mean in addition to  
16 what he talked about yesterday?  
17 MR. PANARELLA: Of course. I am  
18 sorry.  
19 A. Yeah.  
20 Q. Anything that you would like to  
21 supplement in terms of your physical injuries  
22 other than what you just mentioned with  
23 respect to your right eye and --  
24 A. No, I think I covered everything.  
25 Would you --

Page 310

1 R. Eisner  
2 Dr. Lavrich?  
3 A. There was -- the first one I was  
4 sent to, this was referred by my primary care  
5 doctor, Morris, I had called told him about  
6 what was going on. This was the -- either  
7 the 8th of the 9th, the day it happened or  
8 following day, I was telling him what my eye  
9 problems were.  
10 He immediately said I want you to  
11 go to this ophthalmologist in Southampton,  
12 which is not far from Bensalem. So I went  
13 there, they did some test and they had  
14 referred me to -- they did want me to get  
15 some further tests done on it and ended up  
16 with Total Eye Care that I went to to make  
17 sure what was going on.  
18 Q. So you have seen someone in Hampton  
19 and Dr. Lavrich?  
20 A. Yes, Southampton.  
21 Q. Anybody else?  
22 MR. DOBI: Southampton. It is one  
23 word, Southampton.  
24 Q. Let me start again, you have seen  
25 someone in Southampton and Dr. Lavrich for

# **Exhibit H**

**KELLEY DRYE & WARREN LLP**

A LIMITED LIABILITY PARTNERSHIP

**101 PARK AVENUE  
NEW YORK, NY 10178**

(212) 808-7800

WASHINGTON, DC  
LOS ANGELES, CALIFORNIA  
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PARSIPPANY, NJ

BRUSSELS, BELGIUM

AFFILIATE OFFICE  
MUMBAI, INDIA

FACSIMILE  
(212) 808-7867  
www.kelleydrye.com

MARTIN A. KROLEWSKI  
DIRECT LINE: (212) 808-5137  
EMAIL: mkrolewski@kelleydrye.com

April 2, 2015

**VIA FIRST CLASS U.S. MAIL AND E-MAIL**

Marshall E. Kresman, Esq.  
Law Offices of Marshall E. Kresman  
1950 Street Road, Suite 103  
The Constitution Building  
Bensalem, PA 19020

Kevin J. Funk, Esq.  
DURRETTE CRUMP PLC  
Bank of America Center, 16th Floor  
1111 East Main Street  
Richmond, VA 23219

Re: *Roy and Joanne Eisner v. Circuit City Stores, Inc., Case No. 08-35653*  
*Claim Nos. 3025 and 3852*

Dear Marshall and Kevin:

Attached hereto please find Notices of Depositions for the testifying expert witnesses identified by Roy Eisner – H. Gary Broughton, Dr. Brad Shamis, Dr. Norman Stempler, Dr. Kenneth Morris and Dr. Rodger Caine – in the above referenced matter.

Very truly yours,

  
Martin A. Krolewski

Enclosures

cc: Nicholas J. Panarella, Esq.





Nicholas J. Panarella, Esq.  
Martin A. Krolewski, Esq.  
(admitted *pro hac vice*)  
KELLEY DRYE & WARREN LLP  
101 Park Avenue  
New York, New York 10178  
Telephone: (212) 808-7800  
Telecopy: (212) 808-7897

Lynn L. Tavenner, Esq. (VA Bar No. 30083)  
Paula S. Beran, Esq. (VA Bar No. 34679)  
TAVENNER & BERAN, PLC  
20 North Eighth Street, 2<sup>nd</sup> Floor  
Richmond, Virginia 23219  
Telephone: (804) 783-8300  
Telecopy: (804) 783-0178

*Counsel to Alfred H. Siegel, as Trustee of the  
Circuit City Stores, Inc. Liquidating Trust*

*Counsel to Alfred H. Siegel, as Trustee of the  
Circuit City Stores, Inc. Liquidating Trust*

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
RICHMOND DIVISION**

In re:	) Case No. 08-35653 (KRH)
	)
CIRCUIT CITY STORES, INC., <u>et al.</u> ,	) Chapter 11
	)
Debtors.	) (Jointly Administered)
	)

**NOTICE OF DEPOSITION OF PLAINTIFF'S  
EXPERT WITNESS H. GARY BROUGHTON**

PLEASE TAKE NOTICE that, pursuant to Rules 26 and 30 of the Federal Rules of Civil Procedure, as made applicable to this proceeding by Rules 7026 and 7030 of the Federal Rules of Bankruptcy Procedure, Defendant The Circuit City Stores, Inc. Liquidating Trust, by and through its counsel, will take the deposition upon oral examination of Plaintiff's Expert Witness H. Gary Broughton. The deposition will begin at 10:00 a.m. on the 24th day of April, 2015, at the Law Offices of Tavenner & Beran, PLC located at 20 North Eighth Street, 2nd Floor, Richmond, Virginia 23219, (804) 783-8300, and will continue from day to day until completed. The deposition will be taken before a Notary Public or other person authorized to administer oaths in accordance with Rule 28(a) of the Federal Rules of Civil Procedure, and the testimony at the deposition will be recorded by videographic and/or stenographic means.

You are invited to attend and participate to the extent of the applicable rules.

Dated: Richmond, Virginia  
April 2, 2015

TAVENNER & BERAN, PLC

/s/ Lynn L. Tavenner

Lynn L. Tavenner (VA Bar No. 30083)  
Paula S. Beran (VA Bar No. 34679)  
20 North Eighth Street, 2<sup>nd</sup> Floor  
Richmond, Virginia 23219  
Telephone: (804) 783-8300

- and -

KELLEY DRYE & WARREN LLP

/s/ Martin A. Krolewski

Martin A. Krolewski, Esq.  
(admitted *pro hac vice*)  
Nicholas J. Panarella, Esq.  
(admitted *pro hac vice*)  
101 Park Avenue  
New York, New York 10178  
Telephone: (212) 808-7800  
Telecopy: (212) 808-7897

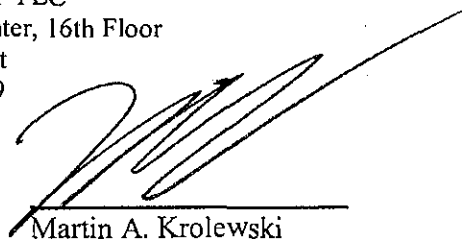
*Counsel to Defendant, Alfred H. Siegel, Trustee of  
the Circuit City Stores, Inc. Liquidating Trust*

**CERTIFICATE OF SERVICE**

I hereby certify that on April 2, 2015, a copy of the foregoing NOTICE OF DEPOSITION OF PLAINTIFF'S EXPERT WITNESS H. GARY BROUGHTON was mailed first class mail, postage pre-paid to the following persons listed below:

Marshall E. Kresman, Esq.  
Law Offices of Marshall E. Kresman  
1950 Street Road, Suite 103  
The Constitution Building  
Bensalem, PA 19020

Kevin J. Funk, Esq.  
DURRETTE CRUMP PLC  
Bank of America Center, 16th Floor  
1111 East Main Street  
Richmond, VA 23219



Martin A. Krolewski



Nicholas J. Panarella, Esq.  
Martin A. Krolewski, Esq.  
(admitted *pro hac vice*)  
KELLEY DRYE & WARREN LLP  
101 Park Avenue  
New York, New York 10178  
Telephone: (212) 808-7800  
Telecopy: (212) 808-7897

Lynn L. Tavenner, Esq. (VA Bar No. 30083)  
Paula S. Beran, Esq. (VA Bar No. 34679)  
TAVENNER & BERAN, PLC  
20 North Eighth Street, 2<sup>nd</sup> Floor  
Richmond, Virginia 23219  
Telephone: (804) 783-8300  
Telecopy: (804) 783-0178

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Circuit City Stores, Inc. Liquidating Trust*

*Counsel to Alfred H. Siegel, as Trustee of the  
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FOR THE EASTERN DISTRICT OF VIRGINIA  
RICHMOND DIVISION**

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	)
CIRCUIT CITY STORES, INC., <u>et al.</u> ,	) Chapter 11
	)
Debtors.	) (Jointly Administered)
	)

**NOTICE OF DEPOSITION OF PLAINTIFF'S  
EXPERT WITNESS DR. BRAD SHAMIS**

PLEASE TAKE NOTICE that, pursuant to Rules 26 and 30 of the Federal Rules of Civil Procedure, as made applicable to this proceeding by Rules 7026 and 7030 of the Federal Rules of Bankruptcy Procedure, Defendant The Circuit City Stores, Inc. Liquidating Trust, by and through its counsel, will take the deposition upon oral examination of Plaintiff's Expert Witness Dr. Brad Shamis. The deposition will begin at 10:00 a.m. on the 27th day of April, 2015, at Eckert Seamans Cherin & Mellott, LLC, Two Liberty Place, 50 South 16th Street, 22nd Floor, Philadelphia, PA 19102, (215) 851-8400, and will continue from day to day until completed. The deposition will be taken before a Notary Public or other person authorized to administer oaths in accordance with Rule 28(a) of the Federal Rules of Civil Procedure, and the testimony at the deposition will be recorded by videographic and/or stenographic means.

You are invited to attend and participate to the extent of the applicable rules.

Dated: Richmond, Virginia  
April 2, 2015

TAVENNER & BERAN, PLC

/s/ Lynn L. Tavenner

Lynn L. Tavenner (VA Bar No. 30083)  
Paula S. Beran (VA Bar No. 34679)  
20 North Eighth Street, 2<sup>nd</sup> Floor  
Richmond, Virginia 23219  
Telephone: (804) 783-8300

- and -

KELLEY DRYE & WARREN LLP

/s/ Martin A. Krolewski

Martin A. Krolewski, Esq.  
(admitted *pro hac vice*)  
Nicholas J. Panarella, Esq.  
(admitted *pro hac vice*)  
101 Park Avenue  
New York, New York 10178  
Telephone: (212) 808-7800  
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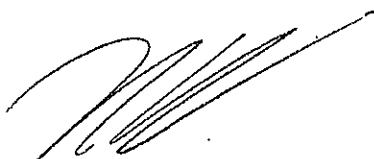
*Counsel to Defendant, Alfred H. Siegel, Trustee of  
the Circuit City Stores, Inc. Liquidating Trust*

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1950 Street Road, Suite 103  
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DURRETTE CRUMP PLC  
Bank of America Center, 16th Floor  
1111 East Main Street  
Richmond, VA 23219

  
\_\_\_\_\_  
Martin A. Krolewski





Nicholas J. Panarella, Esq.  
Martin A. Krolewski, Esq.  
(admitted *pro hac vice*)  
KELLEY DRYE & WARREN LLP  
101 Park Avenue  
New York, New York 10178  
Telephone: (212) 808-7800  
Telecopy: (212) 808-7897

Lynn L. Tavenner, Esq. (VA Bar No. 30083)  
Paula S. Beran, Esq. (VA Bar No. 34679)  
TAVENNER & BERAN, PLC  
20 North Eighth Street, 2<sup>nd</sup> Floor  
Richmond, Virginia 23219  
Telephone: (804) 783-8300  
Telecopy: (804) 783-0178

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*Counsel to Alfred H. Siegel, as Trustee of the  
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FOR THE EASTERN DISTRICT OF VIRGINIA  
RICHMOND DIVISION**

In re: ) Case No. 08-35653 (KRH)  
)  
CIRCUIT CITY STORES, INC., et al., ) Chapter 11  
)  
Debtors. ) (Jointly Administered)  
)

**NOTICE OF DEPOSITION OF PLAINTIFF'S  
EXPERT WITNESS DR. NORMAN STEMPLER**

PLEASE TAKE NOTICE that, pursuant to Rules 26 and 30 of the Federal Rules of Civil Procedure, as made applicable to this proceeding by Rules 7026 and 7030 of the Federal Rules of Bankruptcy Procedure, Defendant The Circuit City Stores, Inc. Liquidating Trust, by and through its counsel, will take the deposition upon oral examination of Plaintiff's Expert Witness Dr. Norman Stempler. The deposition will begin at 10:00 a.m. on the 28th day of April, 2015, at Eckert Seamans Cherin & Mellott, LLC, Two Liberty Place, 50 South 16th Street, 22nd Floor, Philadelphia, PA 19102, (215) 851-8400, and will continue from day to day until completed. The deposition will be taken before a Notary Public or other person authorized to administer oaths in accordance with Rule 28(a) of the Federal Rules of Civil Procedure, and the testimony at the deposition will be recorded by videographic and/or stenographic means.

You are invited to attend and participate to the extent of the applicable rules.

Dated: Richmond, Virginia  
April 2, 2015

TAVENNER & BERAN, PLC

/s/ Lynn L. Tavenner

Lynn L. Tavenner (VA Bar No. 30083)  
Paula S. Beran (VA Bar No. 34679)  
20 North Eighth Street, 2<sup>nd</sup> Floor  
Richmond, Virginia 23219  
Telephone: (804) 783-8300

- and -

KELLEY DRYE & WARREN LLP

/s/ Martin A. Krolewski

Martin A. Krolewski, Esq.  
(admitted *pro hac vice*)  
Nicholas J. Panarella, Esq.  
(admitted *pro hac vice*)  
101 Park Avenue  
New York, New York 10178  
Telephone: (212) 808-7800  
Telecopy: (212) 808-7897

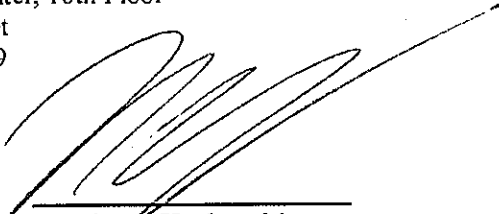
*Counsel to Defendant, Alfred H. Siegel, Trustee of  
the Circuit City Stores, Inc. Liquidating Trust*

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Law Offices of Marshall E. Kresman  
1950 Street Road, Suite 103  
The Constitution Building  
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Richmond, VA 23219

  
\_\_\_\_\_  
Martin A. Krolewski



Nicholas J. Panarella, Esq.  
Martin A. Krolewski, Esq.  
(admitted *pro hac vice*)  
KELLEY DRYE & WARREN LLP  
101 Park Avenue  
New York, New York 10178  
Telephone: (212) 808-7800  
Telecopy: (212) 808-7897

Lynn L. Tavenner, Esq. (VA Bar No. 30083)  
Paula S. Beran, Esq. (VA Bar No. 34679)  
TAVENNER & BERAN, PLC  
20 North Eighth Street, 2<sup>nd</sup> Floor  
Richmond, Virginia 23219  
Telephone: (804) 783-8300  
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*Counsel to Alfred H. Siegel, as Trustee of the  
Circuit City Stores, Inc. Liquidating Trust*

*Counsel to Alfred H. Siegel, as Trustee of the  
Circuit City Stores, Inc. Liquidating Trust*

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FOR THE EASTERN DISTRICT OF VIRGINIA  
RICHMOND DIVISION**

In re:	) Case No. 08-35653 (KRH)
	)
CIRCUIT CITY STORES, INC., <u>et al.</u> ,	) Chapter 11
	)
Debtors.	) (Jointly Administered)
	)

**NOTICE OF DEPOSITION OF PLAINTIFF'S  
EXPERT WITNESS DR. KENNETH MORRIS**

PLEASE TAKE NOTICE that, pursuant to Rules 26 and 30 of the Federal Rules of Civil Procedure, as made applicable to this proceeding by Rules 7026 and 7030 of the Federal Rules of Bankruptcy Procedure, Defendant The Circuit City Stores, Inc. Liquidating Trust, by and through its counsel, will take the deposition upon oral examination of Plaintiff's Expert Witness Dr. Kenneth Morris. The deposition will begin at 10:00 a.m. on the 29th day of April, 2015, at Eckert Seamans Cherin & Mellott, LLC, Two Liberty Place, 50 South 16th Street, 22nd Floor, Philadelphia, PA 19102, (215) 851-8400, and will continue from day to day until completed. The deposition will be taken before a Notary Public or other person authorized to administer oaths in accordance with Rule 28(a) of the Federal Rules of Civil Procedure, and the testimony at the deposition will be recorded by videographic and/or stenographic means.

You are invited to attend and participate to the extent of the applicable rules.

Dated: Richmond, Virginia  
April 2, 2015

TAVENNER & BERAN, PLC

/s/ Lynn L. Tavenner

Lynn L. Tavenner (VA Bar No. 30083)  
Paula S. Beran (VA Bar No. 34679)  
20 North Eighth Street, 2<sup>nd</sup> Floor  
Richmond, Virginia 23219  
Telephone: (804) 783-8300

- and -

KELLEY DRYE & WARREN LLP

/s/ Martin A. Krolewski

Martin A. Krolewski, Esq.  
(admitted *pro hac vice*)  
Nicholas J. Panarella, Esq.  
(admitted *pro hac vice*)  
101 Park Avenue  
New York, New York 10178  
Telephone: (212) 808-7800  
Telecopy: (212) 808-7897

*Counsel to Defendant, Alfred H. Siegel, Trustee of  
the Circuit City Stores, Inc. Liquidating Trust*

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Marshall E. Kresman, Esq.  
Law Offices of Marshall E. Kresman  
1950 Street Road, Suite 103  
The Constitution Building  
Bensalem, PA 19020

Kevin J. Funk, Esq.  
DURRETTE CRUMP PLC  
Bank of America Center, 16th Floor  
1111 East Main Street  
Richmond, VA 23219



Martin A. Krolewski





Nicholas J. Panarella, Esq.  
Martin A. Krolewski, Esq.  
(admitted *pro hac vice*)  
KELLEY DRYE & WARREN LLP  
101 Park Avenue  
New York, New York 10178  
Telephone: (212) 808-7800  
Telecopy: (212) 808-7897

Lynn L. Tavenner, Esq. (VA Bar No. 30083)  
Paula S. Beran, Esq. (VA Bar No. 34679)  
TAVENNER & BERAN, PLC  
20 North Eighth Street, 2<sup>nd</sup> Floor  
Richmond, Virginia 23219  
Telephone: (804) 783-8300  
Telecopy: (804) 783-0178

*Counsel to Alfred H. Siegel, as Trustee of the  
Circuit City Stores, Inc. Liquidating Trust*

*Counsel to Alfred H. Siegel, as Trustee of the  
Circuit City Stores, Inc. Liquidating Trust*

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
RICHMOND DIVISION**

In re:	) Case No. 08-35653 (KRH)
	)
CIRCUIT CITY STORES, INC., <u>et al.</u> ,	) Chapter 11
	)
Debtors.	) (Jointly Administered)
	)

**NOTICE OF DEPOSITION OF PLAINTIFF'S  
EXPERT WITNESS DR. RODGER CAINE**

PLEASE TAKE NOTICE that, pursuant to Rules 26 and 30 of the Federal Rules of Civil Procedure, as made applicable to this proceeding by Rules 7026 and 7030 of the Federal Rules of Bankruptcy Procedure, Defendant The Circuit City Stores, Inc. Liquidating Trust, by and through its counsel, will take the deposition upon oral examination of Plaintiff's Expert Witness Dr. Rodger Caine. The deposition will begin at 10:00 a.m. on the 30th day of April, 2015, at Eckert Seamans Cherin & Mellott, LLC, Two Liberty Place, 50 South 16th Street, 22<sup>nd</sup> Floor, Philadelphia, PA 19102, (215) 851-8400, and will continue from day to day until completed. The deposition will be taken before a Notary Public or other person authorized to administer oaths in accordance with Rule 28(a) of the Federal Rules of Civil Procedure, and the testimony at the deposition will be recorded by videographic and/or stenographic means.

You are invited to attend and participate to the extent of the applicable rules.

Dated: Richmond, Virginia  
April 2, 2015

TAVENNER & BERAN, PLC

/s/ Lynn L. Tavenner

Lynn L. Tavenner (VA Bar No. 30083)  
Paula S. Beran (VA Bar No. 34679)  
20 North Eighth Street, 2<sup>nd</sup> Floor  
Richmond, Virginia 23219  
Telephone: (804) 783-8300

- and -

KELLEY DRYE & WARREN LLP

/s/ Martin A. Krolewski

Martin A. Krolewski, Esq.  
(admitted *pro hac vice*)  
Nicholas J. Panarella, Esq.  
(admitted *pro hac vice*)  
101 Park Avenue  
New York, New York 10178  
Telephone: (212) 808-7800  
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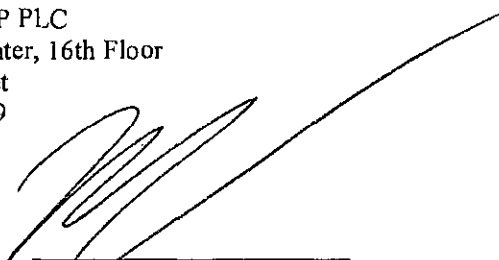
*Counsel to Defendant, Alfred H. Siegel, Trustee of  
the Circuit City Stores, Inc. Liquidating Trust*

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Marshall E. Kresman, Esq.  
Law Offices of Marshall E. Kresman  
1950 Street Road, Suite 103  
The Constitution Building  
Bensalem, PA 19020

Kevin J. Funk, Esq.  
DURRETTE CRUMP PLC  
Bank of America Center, 16th Floor  
1111 East Main Street  
Richmond, VA 23219

  
\_\_\_\_\_  
Martin A. Krolewski

# **Exhibit I**

**Krolewski, Martin A.**

---

**From:** Kevin Funk <kfunk@durrettecrump.com>  
**Sent:** Wednesday, April 01, 2015 5:44 PM  
**To:** Krolewski, Martin A.; Panarella, Nicholas  
**Cc:** mek@kresmanlaw.com; Kevin Funk  
**Subject:** RE: Roy and Joanne Eisner v. Circuit City Stores, Inc., Case No. 08-35653, Claim Nos. 3025 and 3852

Gentlemen:

We are in receipt of your expert reports. Generally, the party with the burden of proof is required to disclose experts on those issues first but then has the opportunity to file reports rebutting the opposing side's experts. Alternatively, some pre-trial orders require both sides to disclose simultaneously and then both sides issue rebuttals. This pre-trial order is a little unusual in that Mr. Eisner, the party with the burden, does not file a reply responding to your experts. We would propose a modification to the pre-trial order in which we would file reply reports, addressing your experts. We think this would benefit everyone in that it would minimize the likelihood of surprise at trial and possibly move the sides to settlement. What are your thoughts on this?

Kevin J. Funk, Director  
Bank of America Center, 16th Floor  
1111 East Main Street, Richmond, VA 23219  
804.343.4387 | fax 804.775.6911

kfunk@durrettecrump.com



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**From:** Krolewski, Martin A. [mailto:MKrolewski@KelleyDrye.com]  
**Sent:** Tuesday, March 24, 2015 6:29 PM  
**To:** mek@kresmanlaw.com; Kevin Funk  
**Cc:** Panarella, Nicholas; Krolewski, Martin A.  
**Subject:** RE: Roy and Joanne Eisner v. Circuit City Stores, Inc., Case No. 08-35653, Claim Nos. 3025 and 3852

Please see attached correspondence and attachments thereto concerning the claims referenced above.

Best regards,  
Marty

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Martin A. Krolewski, Esq. | Kelley Drye & Warren LLP

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# **Exhibit J**

**Krolewski, Martin A.**

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**From:** Kevin Funk <kfunk@durrettecrump.com>  
**Sent:** Friday, April 03, 2015 12:16 PM  
**To:** Krolewski, Martin A.; Panarella, Nicholas  
**Cc:** mek@kresmanlaw.com; Kevin Funk  
**Subject:** RE: Roy and Joanne Eisner v. Circuit City Stores, Inc., Case No. 08-35653, Claim Nos. 3025 and 3852

Gentlemen:

We are in receipt of your deposition notices for claimant's experts. As an initial matter, no attempt was made to coordinate with us or the experts themselves. We are willing to coordinate with them and you to find a mutually agreeable time, but these are busy professionals. Please confirm that you are willing to move the depositions to coordinate schedules.

Also, FRCP 26 requires that the trust compensate the experts for their time responding to discovery. I would assume you would want the hourly rates for each expert prior to the deposition. We would like a written commitment from you as to compensation once we agree on a place and time constraints on the deposition of the experts.

Please contact me regarding these matters no later than Monday so that we can resolve these without the need for a protective order.

Kevin J. Funk, Director  
Bank of America Center, 16th Floor  
1111 East Main Street, Richmond, VA 23219  
804.343.4387 | fax 804.775.6911

kfunk@durrettecrump.com



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**From:** Krolewski, Martin A. [mailto:MKrolewski@KelleyDrye.com]  
**Sent:** Thursday, April 02, 2015 7:04 PM  
**To:** mek@kresmanlaw.com; Kevin Funk  
**Cc:** Panarella, Nicholas; Krolewski, Martin A.  
**Subject:** Roy and Joanne Eisner v. Circuit City Stores, Inc., Case No. 08-35653, Claim Nos. 3025 and 3852

Please see attached correspondence and attachments thereto concerning the claims referenced above.

Best regards,



---

**Martin A. Krolewski, Esq. | Kelley Drye & Warren LLP**  
101 Park Avenue, New York, NY 10178  
212.808.5137 | [mkrolewski@kelleydrye.com](mailto:mkrolewski@kelleydrye.com)  
[www.kelleydrye.com](http://www.kelleydrye.com)

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